

Exhibit C

Joye K. Lowman, M.D., MPH

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PHILADELPHIA COUNTY COURT OF COMMON PLEAS
TRIAL DIVISION - CIVIL

MAY TERM, 2013

No. 003913

PATRICIA L. HAMMONS,

Plaintiff,

vs.

ETHICON WOMEN'S HEALTH AND UROLOGY, a Division of
Ethicon, Inc.,

and

ETHICON, INC.,

and

GYNECARE,

and

JOHNSON & JOHNSON,

Defendants.

VIDEOTAPED DEPOSITION OF
JOYE K. LOWMAN, M.D., MPH

Atlanta, Georgia

Friday, November 13, 2015

Court Reporter: Michelle M. Boudreaux, RPR

Joye K. Lowman, M.D., MPH

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| <p style="text-align: right;">Page 2</p> <p>1 2 3 4 5 6 November 13, 2015 7 10:22 a.m. 8 Golkow Job No. 117256 9 10 11 Videotaped deposition of 12 JOYE K. LOWMAN, M.D., MPH, held at the 13 offices of Troutman Sanders LLP, Bank of 14 America Plaza, Suite 5200, 600 Peachtree 15 Street, Atlanta, Georgia pursuant to 16 Agreement before Michelle M. Boudreaux, a 17 Registered Professional Reporter in the State 18 of Georgia. 19 20 21 22 23 24</p> | <p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: We are now on the 2 video record. My name is Josh Coleman. I'm 3 the videographer for Golkow Technologies. 4 Today's date is November 13th, 2015. The 5 time is approximately 10:22 a.m. 6 This video deposition is being held in 7 Atlanta, Georgia, in the matter of Patricia 8 Hammons versus Ethicon, Inc., et al., for the 9 Philadelphia County Court of Common Pleas, 10 Trial Division. The deponent is Joye Lowman, 11 M.D. 12 Counsel will now please identify 13 themselves for the record. 14 MR. SLATER: Adam Slater for 15 plaintiff. 16 MR. GOODALL: Jon Goodall for 17 plaintiff. 18 MR. ISMAIL: Tarek Ismail for the 19 defendants. 20 MS. DEMING: Kay Deming for the 21 defendants. 22 THE VIDEOGRAPHER: The court reporter is 23 Michelle Boudreaux and will now swear in the 24 witness.</p> |
| <p style="text-align: right;">Page 3</p> <p>1 APPEARANCES OF COUNSEL 2 3 On behalf of the Plaintiff: 4 ADAM M. SLATER, Esq. (via videoconference) 5 Mazie Slater Katz & Freeman LLC 6 103 Eisenhower Parkway, 2nd Floor 7 Roseland, New Jersey 07068 8 973.228.9898 9 aslater@mskf.net 10 11 JONATHAN GOODALL, Esq. 12 Kline & Specter, P.C. 13 1525 Locust Street 14 Philadelphia, Pennsylvania 19102 15 215.772.1000 16 jonathan.goodall@klinespecter.com 17 18 On behalf of the Defendants: 19 20 TAREK ISMAIL, Esq. 21 Goldman Ismail Tomaselli Brennan & Baum LLP 22 564 West Randolph Street 23 Suite 400 24 Chicago, Illinois 60661 312.681.6000 tismail@goldmainmail.com N. "KAY" KAREN DEMING, Esq. Troutman Sanders LLP Bank of America Plaza, Suite 5200 600 Peachtree Street, N.E. Atlanta, Georgia 30308-2216 404.885.3000 karen.deming@troutmansanders.com Videographer: Josh Coleman</p> | <p style="text-align: right;">Page 5</p> <p>1 JOYE K. LOWMAN, M.D., MPH, 2 being first duly sworn, was examined and testified as 3 follows: 4 EXAMINATION 5 BY MR. SLATER: 6 Q Dr. Lowman, good morning. 7 A Good morning. 8 Q I'm Adam Slater. I'm here to take your 9 deposition today. You've been named as an expert 10 witness. You understand you've been put forward as an 11 expert witness for Ethicon and Johnson & Johnson in 12 this case? 13 A I'm -- yes, I'm counseling -- I am a 14 consultant with Troutman and Sanders, yes. 15 Q You're a consultant with Troutman and 16 Sanders. Do you understand that you've been named as 17 an expert witness for Ethicon and Johnson & Johnson in 18 a litigated case in Philadelphia County? 19 A I understand that I'm an expert witness, yes. 20 Q Have you ever been an expert witness in 21 another case before this? 22 A I have not. 23 Q Okay. You understand you're under oath now, 24 right?</p> |

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1 A I understand that. My understanding of your
 2 question is have I served as an expert witness. I've
 3 served as a fact witness. I don't know if there's --
 4 I'm assuming that there's a difference there.
 5 Q There is. We'll talk about that later.
 6 You understand you're under oath and must
 7 tell the truth in response to every question I ask you,
 8 correct?
 9 A Correct.
 10 Q Okay. If you have a question about something
 11 that I ask you or anyone else asks you --
 12 A Uh-huh.
 13 Q -- because the question is unclear to you for
 14 some reason, just tell me or whoever is asking you the
 15 question so that we can clarify what it is that you
 16 don't understand, okay?
 17 A Okay. I thought I understood the question,
 18 but I'll make sure that I clarify, uh-huh.
 19 Q I'm just telling you in the course of the
 20 deposition, for example, I may ask you about medical
 21 terminology that I don't understand. I may
 22 mispronounce a word. I may ask you something that
 23 makes no sense to you whatsoever because I mumble --
 24 A Right.

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1 Q -- or because I'm tired or I can't get my
 2 sentences put together. Whatever the issue is, if you
 3 don't feel comfortable answering the question because
 4 you don't understand what you're being asked, just ask,
 5 you know, for clarification on what seems unclear,
 6 okay?
 7 A Okay, not a problem.
 8 Q There will be objections during the course of
 9 the deposition. I don't expect that there will be
 10 substantive objections, but you may hear "objection to
 11 the form of the question" sometimes. That's not a
 12 signal and it's not anything that you should be
 13 distracted by. Lawyers do that because they want to
 14 preserve their rights under the evidence rules at
 15 times. So just let somebody state their objection and
 16 then answer the question after the objection, okay?
 17 A Okay.
 18 Q When were you first contacted to do work in
 19 this case?
 20 A I don't remember exactly. Karen reached out
 21 to me at some point during the summer about possibly
 22 consulting with them about cases like this, but I don't
 23 remember the exact date.
 24 Q The summer of 2015?

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1 A The summer of 2015, yes.
 2 Q When did you first have any discussion with
 3 anybody or receive any information with regard to the
 4 Hammons case?
 5 A Again, I don't remember that exact date, but
 6 I believe it was also in the summer as well.
 7 Q Summer of 2015, correct?
 8 A Of 2015. I think it was around August, but
 9 I'm not sure.
 10 Q Is this case the first time you've acted as
 11 an expert witness in a litigated matter?
 12 A Yes.
 13 Q Have you ever been deposed before?
 14 A Yes.
 15 Q How many times?
 16 A Once before.
 17 Q Do you remember the name of that case?
 18 A I -- the patient's name?
 19 Q Anything about the name of the case.
 20 A I remember the patient's name, yes.
 21 Q Okay. What was it?
 22 THE WITNESS: Am I allowed to disclose
 23 that?
 24 MR. ISMAIL: You are.

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1 MR. SLATER: Yes.
 2 THE WITNESS: Okay.
 3 MR. SLATER: Yes.
 4 THE WITNESS: Annette Lucas.
 5 Q (By Mr. Slater) Were you deposed as a
 6 treating doctor in that case?
 7 A I was.
 8 Q What are the fees that you're charging for
 9 your work in this case?
 10 A I'm charging 400 an hour and 600 an hour for
 11 deposition and trial.
 12 MR. SLATER: What I'd like to do -- I
 13 think we've marked as Exhibit 1 Dr.
 14 Lowman's expert report and the materials
 15 attached to it. So if we could, let's -- if
 16 we could hand that to her, I'd appreciate it.
 17 Q (By Mr. Slater) Dr. Lowman, you've had put
 18 in front of you what we've marked as Exhibit Lowman 1.
 19 Tell me what that is.
 20 A It's my expert report.
 21 Q When did you write this report?
 22 A I don't remember the exact date.
 23 Q And we'll start with this: You didn't write
 24 it yesterday, right?

3 (Pages 6 to 9)

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| <p style="text-align: right;">Page 10</p> <p>1 A I didn't write it yesterday, that's correct.</p> <p>2 Q All right. Well, tell me -- tell me what</p> <p>3 month you wrote it in.</p> <p>4 A I think it was September.</p> <p>5 Q September of 2015?</p> <p>6 A 2015, yes.</p> <p>7 Q Does this report contain each of the opinions</p> <p>8 that you formed in connection with this case?</p> <p>9 A It does.</p> <p>10 Q In the course of the report, you discussed</p> <p>11 certain facts, both general facts about the Prolift and</p> <p>12 about the medical literature, as well as about</p> <p>13 Ms. Hammons in specific.</p> <p>14 A Yes.</p> <p>15 Q Did you set forth and discuss those facts</p> <p>16 that you felt were most important to you in forming</p> <p>17 your opinions?</p> <p>18 A Did I spell out the facts that were most</p> <p>19 important to me? I believe I did, yes.</p> <p>20 Q This report is 58 pages long and it's dated</p> <p>21 August 2015, correct?</p> <p>22 A Yes, not including the appendix, my part of</p> <p>23 the report is 58 pages long.</p> <p>24 Q Did you write this report yourself, every</p> | <p style="text-align: right;">Page 12</p> <p>1 Q Do you know Dr. Raders, who works with</p> <p>2 Dr. Zipper?</p> <p>3 A I have met Dr. Raders before, yes.</p> <p>4 Q Did you work with him in Pennsylvania? Was</p> <p>5 he with Dr. Lucente at that point, or had he left by</p> <p>6 then?</p> <p>7 A He was with Dr. Lucente at that point.</p> <p>8 Q What was Dr. Raders' role or what was his</p> <p>9 position at the time that you knew him in Pennsylvania?</p> <p>10 A I don't know his position specifically. My</p> <p>11 understanding is that he was training under</p> <p>12 Dr. Lucente.</p> <p>13 Q Do you know Dr. Weber?</p> <p>14 A I've never met her, but I am -- I've heard</p> <p>15 her name before, yes.</p> <p>16 Q You know who she is, correct?</p> <p>17 A I've seen her name on several publications,</p> <p>18 but I've never met her.</p> <p>19 Q Do you know Charlotte Owens?</p> <p>20 A No.</p> <p>21 Q Do you know who Charlotte Owens is?</p> <p>22 A I don't know. That name doesn't ring a bell,</p> <p>23 no, but I'm bad with names, so I can't say that I've</p> <p>24 never met her. I just don't know that person.</p> |
| <p style="text-align: right;">Page 11</p> <p>1 word of it?</p> <p>2 A I wrote this report myself.</p> <p>3 Q Nobody else had any input into writing this</p> <p>4 report?</p> <p>5 MR. ISMAIL: Objection. Are we getting</p> <p>6 into drafting of the report?</p> <p>7 MR. SLATER: I'm not asking if -- who</p> <p>8 was involved or what involvement anybody else</p> <p>9 had. I just want to understand whether</p> <p>10 Dr. Lowman wrote every word in this report</p> <p>11 herself.</p> <p>12 THE WITNESS: Yes.</p> <p>13 Q (By Mr. Slater) Doctor, when you wrote this</p> <p>14 report, did you look at other reports to see what the</p> <p>15 report was supposed to look like for format, for</p> <p>16 example?</p> <p>17 A In writing the report, I reviewed other</p> <p>18 expert reports, yes. I'm not sure if I understand the</p> <p>19 question.</p> <p>20 Q What other expert reports did you review?</p> <p>21 A I reviewed Dr. Zipper's report and I reviewed</p> <p>22 Dr. Weber's report.</p> <p>23 Q Do you know Dr. Zipper?</p> <p>24 A I don't.</p> | <p style="text-align: right;">Page 13</p> <p>1 Q My question is: Do you know who Charlotte</p> <p>2 Owens is?</p> <p>3 A No.</p> <p>4 Q Robinson is?</p> <p>5 A I'm sorry?</p> <p>6 THE WITNESS: He's coming in and out.</p> <p>7 Q (By Mr. Slater) Do you know who David</p> <p>8 Robinson is?</p> <p>9 A I don't believe so.</p> <p>10 Q Do you know Pete Hinoul?</p> <p>11 A Could you repeat that?</p> <p>12 Q Sure. Do you know Pete Hinoul?</p> <p>13 A No.</p> <p>14 Q H-I-N-O-U-L.</p> <p>15 A H-I-N-O-U-L. No, I don't.</p> <p>16 Q Do you know who Pete Hinoul is?</p> <p>17 A I don't.</p> <p>18 Q Do you know who David Robinson is?</p> <p>19 A You just asked me that, I think. No.</p> <p>20 Q I thought I asked you if you knew him. I</p> <p>21 just wanted to ask you, do you know who David Robinson</p> <p>22 is?</p> <p>23 A I don't think so.</p> <p>24 Q Do you know who Scott Ciarrocca is?</p> |

4 (Pages 10 to 13)

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| <p style="text-align: right;">Page 14</p> <p>1 A That name doesn't ring a bell either.</p> <p>2 MR. ISMAIL: Did you ask a question?</p> <p>3 Q (By Mr. Slater) Do you know Paul Parisi?</p> <p>4 A Paul Parisi. I don't think so.</p> <p>5 Q Do you know who Scott Ciarrocca or Paul</p> <p>6 Parisi are?</p> <p>7 A No.</p> <p>8 Q Do you know who Price St. Hilaire is?</p> <p>9 A No.</p> <p>10 Q Do you know who Axel Arnaud is?</p> <p>11 A I don't. I've seen that name in some of the</p> <p>12 expert reports, but I don't know who that person is.</p> <p>13 Q Do you know who Jim Hart is?</p> <p>14 THE WITNESS: What did he say? Jim --</p> <p>15 did you say Jim Hart?</p> <p>16 MR. SLATER: Yes.</p> <p>17 THE WITNESS: No.</p> <p>18 Q (By Mr. Slater) In preparing your report,</p> <p>19 did you read the deposition transcript of any witness</p> <p>20 employed by Ethicon?</p> <p>21 A Did I read the deposition transcript of any</p> <p>22 witness employed by Ethicon? No.</p> <p>23 Q In preparing your report, did you read the</p> <p>24 deposition transcript of any deposition taken of</p> | <p style="text-align: right;">Page 16</p> <p>1 MR. SLATER: Okay.</p> <p>2 MS. DEMING: Unless it's our -- you</p> <p>3 know, the guy that's in charge of our all</p> <p>4 video stuff that will make sure that it's</p> <p>5 coming through and everything is goes kosher</p> <p>6 here, he'll check periodically, but other</p> <p>7 than that, no.</p> <p>8 Q (By Mr. Slater) Doctor, attached to your</p> <p>9 report is an Appendix A. Can you turn to that, please?</p> <p>10 A Okay, I'm here.</p> <p>11 Q It says "Curriculum Vitae" with your name.</p> <p>12 Is that what this is?</p> <p>13 A Yes, that's part of it, uh-huh.</p> <p>14 Q It says that you did your residency in</p> <p>15 obstetrics and gynecology at Abington Memorial</p> <p>16 Hospital.</p> <p>17 A Yes.</p> <p>18 Q Is that correct?</p> <p>19 A That's correct.</p> <p>20 Q Who trained you at Abington?</p> <p>21 A Oh, my gosh. A number of different</p> <p>22 physicians were involved in training us there.</p> <p>23 Q Great. Tell me who they were.</p> <p>24 A I can't list -- I mean, it was, I think, 10</p> |
| <p style="text-align: right;">Page 15</p> <p>1 Dr. Vincent Lucente?</p> <p>2 A No. We can't hear you.</p> <p>3 Q Read any deposition or --</p> <p>4 THE WITNESS: He's coming in and out.</p> <p>5 MS. DEMING: Well, actually, it's just</p> <p>6 the delay in the video.</p> <p>7 THE WITNESS: Oh, it's a delay. Oh.</p> <p>8 MS. DEMING: So his question will</p> <p>9 actually ultimately get to you.</p> <p>10 THE WITNESS: Gotcha.</p> <p>11 MS. DEMING: But it's looking different</p> <p>12 on the camera.</p> <p>13 THE WITNESS: Okay. Sorry.</p> <p>14 Q (By Mr. Slater) Any deposition transcript or</p> <p>15 testimony given by Miles Murphy?</p> <p>16 A No.</p> <p>17 MS. DEMING: I just misspoke.</p> <p>18 Sometimes, Adam, you're beginning a question,</p> <p>19 but it's not coming in over the microphone.</p> <p>20 So she's getting sort of the back end of your</p> <p>21 question.</p> <p>22 MR. SLATER: There's no bridge on this,</p> <p>23 right? Nobody else is on this line, right?</p> <p>24 MS. DEMING: Correct.</p> | <p style="text-align: right;">Page 17</p> <p>1 groups, different private practice groups, so I can't</p> <p>2 list all of them. I don't remember all of their names.</p> <p>3 Q Were you trained by Vincent Lucente?</p> <p>4 A Dr. Lucente was one of them, yes.</p> <p>5 Q Tell me about the training Dr. Lucente did</p> <p>6 with you.</p> <p>7 A Dr. Lucente was the -- I don't know the</p> <p>8 formal name for it, but he was over our urogynecology</p> <p>9 training, so he provided that aspect for us. We have</p> <p>10 to be exposed to all of the surgical subspecialties,</p> <p>11 and he was the person that did that for our residency</p> <p>12 program.</p> <p>13 Q What did the training that Dr. Lucente gave</p> <p>14 you consist of?</p> <p>15 A It consisted of didactics and operating room</p> <p>16 experience, as well as office -- you know, he would</p> <p>17 oversee us seeing patients that came with</p> <p>18 urogynecologic problems to our clinic. We had a</p> <p>19 resident clinic, and he would oversee patients that had</p> <p>20 problems with urogynecology.</p> <p>21 Q Other than general training in the residency</p> <p>22 for urogynecology, did you do any other work with</p> <p>23 Dr. Lucente?</p> <p>24 A At one point, we were trying to do some</p> |

5 (Pages 14 to 17)

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1 research together. I don't remember the specifics of
2 it at this point. But other than that, no.

3 Q What type of research was it?

4 A I don't remember. It was so long ago and it
5 never really got anywhere because Dr. Lucente was so
6 busy at the time, so I honestly don't remember.

7 Q You don't remember anything about the
8 research at all?

9 A No. I just -- I just --

10 Q Nothing that you can tell me?

11 A I don't. I remember that as a resident, we
12 had to do a thesis research project, and I wanted to do
13 my project within the field of urogynecology, so I
14 remember us talking about that, but we just weren't
15 able to really get anything together. So my project
16 ended up being on magnesium sulfate prophylaxis in
17 hypertensive disorders in pregnancy. So I honestly
18 don't -- I don't remember what we talked about.

19 Q Other than being the head of the
20 urogynecology training during your residency, did
21 Dr. Lucente have any other involvement with your
22 education?

23 A Not with direct education. He did write a
24 letter of recommendation for me and going to -- when I

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1 was trying to pursue fellowship. I don't know if you
2 would consider that a part of my education.

3 Q Have you spoken with Dr. Lucente at all about
4 this litigation, either this case in specific or
5 general mesh litigation?

6 A I have.

7 Q When was that?

8 A I don't remember exactly. It was within the
9 last three months for sure because I remember wanting
10 to speak with him specifically about Dr. Zipper's
11 report, or about Dr. Zipper, I should say.

12 Q You spoke with Dr. Lucente within the past
13 three months?

14 A Yes.

15 Q And you spoke to him about Dr. Zipper?

16 A I wanted to. I couldn't remember -- like I
17 said, I'm bad with names, and so when I actually spoke
18 with Dr. Lucente, I couldn't remember Dr. Zipper's
19 name. But the goal of the conversation for me was to
20 try to get some better perspective on Dr. Zipper.

21 Q You originally said that you discussed
22 Dr. Zipper's report with Dr. Lucente.

23 A Right.

24 Q Tell me about that.

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1 A I misspoke. What I meant to say was I was
2 trying to get some greater perspective on
3 Dr. Zipper's -- on his opinions, where that was coming
4 from.

5 Q When you say you wanted better perspective on
6 Dr. Zipper's opinions, does that mean you told
7 Dr. Lucente what Dr. Zipper's opinions were and asked
8 him --

9 A No --

10 Q -- his thoughts?

11 A -- I did not. No. What I wanted to do was
12 to understand why someone who has actually used mesh
13 for pelvic reconstructive surgery was now so against
14 its use. My exposure and experience up until that
15 point had been with physicians who were nonmesh users
16 who thought very negatively about mesh. And I
17 understood that perspective because they see some of
18 the complications and don't get the benefit of seeing
19 some of the successes. So I understand their
20 perspective.

21 I was surprised by Dr. Zipper's perspective,
22 and I wanted to speak with Dr. Lucente about whether or
23 not he had any understanding that might make that
24 more -- that might make it make sense to me.

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1 Q What did Dr. Lucente tell you?

2 A He just, you know, sort of lamented the fact
3 that that is the current situation, that there are some
4 people that feel that way. Again, I couldn't remember
5 Dr. Zipper's name and I don't know who Dr. Zipper is.
6 So he just sort of gave some general opinions about the
7 fact that that's the way it is.

8 Q Tell me what he said.

9 A Oh, I don't -- I don't remember exactly what
10 he said. Like I said, it was three months ago or
11 sometime over the past three months.

12 Q Did you consider this an important
13 conversation when you spoke to Dr. Lucente about the
14 work you were going to do in this case where you were
15 going to be an expert witness?

16 A What do you mean by did I consider it an
17 important conversation? It was just a conversation --

18 Q I'm trying to figure out -- I'm trying to
19 figure out why it is that you're having trouble
20 recalling things that I'm asking you, because my guess
21 is that you'll have recollection of things that are
22 favorable to the position that you've been hired to
23 defend.

24 A No, that's not true.

6 (Pages 18 to 21)

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| <p style="text-align: right;">Page 22</p> <p>1 Q So I'm trying to get at why you're having 2 trouble. 3 A Yeah. 4 Q I'm sorry, but I was talking. 5 A Okay. 6 Q I'm trying to figure out why you're having 7 such trouble recalling things that I'm asking you 8 about. 9 A Because -- 10 MR. ISMAIL: Objection. Move to -- 11 sorry. Objection to form. Move to strike 12 the attorney commentary. 13 THE WITNESS: You're asking me specifics 14 about a conversation that was just a regular 15 conversation that I wasn't thinking, oh, this 16 is something that I should be able to tell 17 somebody about three months from now. This 18 was a conversation that I had with somebody 19 that I consider to be a friend and colleague 20 that I -- had nothing to do with any 21 specifics of this case. 22 If you asked me a -- what conversation I 23 had with my mom two days ago, I wouldn't be 24 able to recount to you exactly what we said.</p> | <p style="text-align: right;">Page 24</p> <p>1 my opinions about the Prolift. It's not just 2 Dr. Lucente. But did I consider his data, yes. 3 Q Was Dr. Lucente's -- well, rephrase. 4 Is Dr. Lucente's data and the things that he 5 has written and said about the Prolift, the things 6 you're aware of, is that an important part of what you 7 rely on? I understand you rely on multiple things, but 8 is that an important part of what you rely on? 9 A It's part of what I rely on, yes. 10 Q Would you consider it to be an important part 11 of what you rely on? 12 A Not any more important than any of the other 13 literature that I considered, no. 14 Q Have you ever been paid money by Ethicon? 15 A No. 16 Q Other than as an expert witness? 17 A No. 18 Q Have you ever worked on a study where Ethicon 19 paid money for the study to be performed? 20 A We did a study on the Prolift, an MRI study, 21 when I was a fellow with Dr. Hale, and Dr. Hale was 22 involved in securing some funding to be able to perform 23 the MRIs. 24 Q Were you ever given any nonfinancial benefits</p> |
| <p style="text-align: right;">Page 23</p> <p>1 I can tell you the general gestalt, but I 2 cannot tell you exactly what was said. 3 Q (By Mr. Slater) You consider Dr. Lucente to 4 be a friend? 5 A Absolutely. 6 Q You consider Dr. Lucente to be a colleague? 7 A I do. 8 Q Do you -- do you respect Dr. Lucente's 9 research in the field of pelvic surgery and 10 particularly with regard to the Prolift? 11 A I do. 12 Q Do you think that Dr. Lucente's literature 13 with regard to the Prolift is something that's 14 important to consider in forming your opinions? 15 A I do. 16 Q Has anybody ever indicated to you that there 17 were any questions about the validity of the data 18 reported by Dr. Lucente in any of his studies? 19 A No. 20 Q Are the findings that Dr. Lucente has made in 21 the medical literature and the things that you've 22 learned from him important to you in forming your 23 opinions about the Prolift? 24 A All of the data is important to me in forming</p> | <p style="text-align: right;">Page 25</p> <p>1 by Ethicon, for example, meals or travel expenses being 2 paid, anything like that? 3 A I don't remember specifically. I know 4 that -- I think that I may have attended a training 5 session, and sometimes they do reimburse for travel and 6 meals when you attend training sessions. So they may 7 have. 8 Q Have you ever signed a consulting agreement 9 or any type of an agreement with Ethicon to perform any 10 work on behalf of their professional education or 11 marketing department where they would agree to pay you 12 for what you did? 13 A No. 14 Q Have you ever acted as a proctor or a 15 preceptor for a Prolift procedure where you've been 16 involved in demonstrating for other doctors how the -- 17 how the Prolift is performed? 18 A Not where -- not where -- not being paid, no. 19 When I was a fellow, we would sometimes -- 20 Q Well, how about -- 21 A When I was a fellow, we would sometimes train 22 residents on some of the procedures that we were 23 performing, but I have not trained other physicians for 24 payment, no.</p> |

7 (Pages 22 to 25)

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| <p style="text-align: right;">Page 26</p> <p>1 Q Have you ever been involved in a proctorship 2 or a preceptorship where physicians watched a procedure 3 that you performed, whether or not you were being paid? 4 And I'm talking about Prolift procedure. 5 A No. 6 Q Have you ever been involved in a proctorship 7 or a preceptorship that was sponsored by Ethicon where 8 they were going to bring doctors to see you operate? 9 A No. 10 Q Were you ever involved in planning an event 11 where you were going to either participate in a 12 proctorship or a preceptorship where Ethicon was going 13 to sponsor the event and bring doctors to see you 14 perform a procedure? 15 A I don't believe so. Not that I can remember. 16 Q Have you interacted over the years with 17 Ethicon employees? 18 A Yes. 19 MR. SLATER: I'm sorry, are you guys not 20 hearing me? 21 MR. ISMAIL: No. 22 Q (By Mr. Slater) I asked who, which Ethicon 23 employees have you interacted with? 24 A Oh, I don't remember. Most of that was</p> | <p style="text-align: right;">Page 28</p> <p>1 Q You had spoken with Dr. Lucente? 2 MR. ISMAIL: Restate your question, 3 please. 4 Q (By Mr. Slater) What was the context that 5 you spoke to Dr. Lucente in -- the last time you had 6 spoken to him before you spoke to him about Dr. Zipper? 7 A I don't remember. It had been a long time 8 since we actually spoke. I -- unfortunately, we're all 9 very busy and so we don't often, you know, talk as much 10 as we'd like, maybe. I don't speak with him on the 11 phone regularly. 12 Q What procedures do you currently utilize to 13 treat anterior prolapse or cystocele? 14 A The -- most often an abdominal 15 sacrocolpopexy. 16 Q You currently would use abdominal 17 sacrocolpopexy to treat a cystocele? 18 A If -- yes, if it's a significant cystocele 19 and I'm -- that I think requires surgical treatment, 20 that's my procedure of choice, yes. 21 Q Do you perform anterior colporrhaphy? 22 A No. 23 Q Have you performed anterior colporrhaphy with 24 sutures in your practice?</p> |
| <p style="text-align: right;">Page 27</p> <p>1 during my fellowship, so I -- again, I'm bad with 2 names. I don't -- I don't remember their names. 3 Q What did those interactions involve? 4 A Sometimes the reps would come to the 5 operating room to make sure that we had the products 6 that we needed. I remember interacting with someone 7 when I was preparing my Prolift paper for presentation 8 at the Society of Gynecologic Surgeons because I needed 9 an electronic picture. I don't remember any other 10 specifics. 11 Q Have you ever spoken with Dr. -- well, let me 12 ask you this. Let me take a step back. You said you 13 spoke with Dr. Lucente in the last three months about 14 Dr. Zipper, correct? 15 A That's correct. 16 Q How long was that conversation? 17 A Very brief. If I had to guess, maybe three 18 minutes, three, four minutes. 19 Q Have you spoken to Dr. Lucente since that 20 time? 21 A I have not. 22 Q When was the last time you had spoken to 23 Dr. Lucente before that? 24 A It had been quite some time. Months.</p> | <p style="text-align: right;">Page 29</p> <p>1 A I have. 2 Q Do you perform abdominal sacrocolpopexy on a 3 patient where they have a cystocele but no vaginal 4 vault prolapse? 5 A It's unusual to see that. But if I had a 6 patient who had a significant cystocele, I would 7 recommend an abdominal sacrocolpopexy even in the 8 absence of apical prolapse. 9 Q What is a significant cystocele? What does 10 that mean? 11 A A cystocele that's symptomatic. Sometimes 12 patients are referred to me because they have a 13 cystocele but the patient is not actually complaining 14 of anything or the cystocele is not bothering them. If 15 it's just there, then it doesn't require treatment. 16 But if the patient is actually bothered by the 17 cystocele, then I would recommend an abdominal 18 sacrocolpopexy. 19 Q So the extent of surgery you would perform 20 would be dependent not just on the anatomic findings, 21 but also on the clinical symptoms reported by the 22 patient? 23 A Correct. 24 Q In terms of evaluating the success of a</p> |

8 (Pages 26 to 29)

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| <p style="text-align: right;">Page 30</p> <p>1 prolapse repair surgery, do you agree that the</p> <p>2 functional outcome in terms of how it -- how the</p> <p>3 patient is functioning day to day is more important</p> <p>4 than the anatomic outcome?</p> <p>5 A No.</p> <p>6 Q Literature and statements by professional</p> <p>7 organizations to that effect?</p> <p>8 A I'm sorry, you dropped off for a second. Can</p> <p>9 you repeat the question?</p> <p>10 Q Are you familiar with statements by medical</p> <p>11 societies and/or medical literature indicating that</p> <p>12 functional outcomes should be the primary measure for</p> <p>13 whether or not a prolapse procedure has been successful</p> <p>14 or not?</p> <p>15 A I'm aware of literature that says that</p> <p>16 functional outcomes should be considered. Whether or</p> <p>17 not it's more important, I'm not aware of that, no.</p> <p>18 Q In determining whether a -- rephrase.</p> <p>19 In determining whether a prolapse procedure</p> <p>20 has been successful, you would not just look at the</p> <p>21 anatomic outcome, correct?</p> <p>22 A That's correct.</p> <p>23 Q In determining whether a prolapse procedure</p> <p>24 was successful, you would look at the functional</p> | <p style="text-align: right;">Page 32</p> <p>1 Q Is that of any significance to you in forming</p> <p>2 your opinions in this case, what Ethicon internally</p> <p>3 believed?</p> <p>4 A No.</p> <p>5 Q Do you know anything about the criteria</p> <p>6 applied by Ethicon in deciding whether or not the</p> <p>7 Prolift should be put on the market in 2005? Do you</p> <p>8 know what criteria they applied?</p> <p>9 A No.</p> <p>10 Q Did you ask the attorneys who retained you to</p> <p>11 get you any information about the criteria Ethicon</p> <p>12 applied when deciding whether or not the Prolift should</p> <p>13 be marketed?</p> <p>14 A No.</p> <p>15 Q Was that of any significance to you at all?</p> <p>16 A No.</p> <p>17 Q Do you know what Ethicon knew internally,</p> <p>18 outside of what is in the published medical literature</p> <p>19 or literature that you've seen at meetings, with regard</p> <p>20 to the risk-benefit profile of the Prolift?</p> <p>21 A No.</p> <p>22 Q Was that of any significance to you?</p> <p>23 A No.</p> <p>24 Q Do you know who Bernard Jacquetin and</p> |
| <p style="text-align: right;">Page 31</p> <p>1 outcome in terms of how the patient is doing and how</p> <p>2 they feel, as well as the anatomic outcome in terms of</p> <p>3 how the organs and how the vagina looks, correct?</p> <p>4 A Yes, but more specifically the symptom that</p> <p>5 relates to that anatomic outcome would be the thing</p> <p>6 that I'd be most interested in.</p> <p>7 Q I think what you're saying is, if you saw,</p> <p>8 for example, after a cystocele repair, that the patient</p> <p>9 had a second-degree cystocele eight months later but</p> <p>10 was -- said, "Oh, I feel a little bulge, but it's not</p> <p>11 really bothering me," would you feel that that surgery</p> <p>12 was generally successful because the patient was</p> <p>13 functioning well?</p> <p>14 MR. ISMAIL: Objection to form.</p> <p>15 THE WITNESS: No.</p> <p>16 Q (By Mr. Slater) If the patient said that she</p> <p>17 was not really bothered by a slight bulge and she felt</p> <p>18 okay, would you recommend surgery to repair a</p> <p>19 second-degree cystocele?</p> <p>20 A No.</p> <p>21 Q Do you know what Ethicon's internal criteria</p> <p>22 was for whether or not a Prolift should be utilized on</p> <p>23 a woman?</p> <p>24 A No.</p> | <p style="text-align: right;">Page 33</p> <p>1 Michelle Cosson are?</p> <p>2 A I've read their names in the literature.</p> <p>3 I've never met them.</p> <p>4 Q Do you know what role they played with regard</p> <p>5 to the Prolift?</p> <p>6 A Yes.</p> <p>7 MR. GOODALL: Adam, we didn't hear that</p> <p>8 question.</p> <p>9 Q (By Mr. Slater) As to the role that Bernard</p> <p>10 Jacquetin and Michelle Cosson played with regard to the</p> <p>11 Prolift.</p> <p>12 MR. ISMAIL: Can you restate, please?</p> <p>13 MR. SLATER: There's sometimes these</p> <p>14 delays on these videoconferencing.</p> <p>15 Q (By Mr. Slater) What is your understanding</p> <p>16 as to the role that was played by Michelle Cosson and</p> <p>17 Bernard Jacquetin with Prolift?</p> <p>18 A My understanding is that they were part of a</p> <p>19 group of surgeons from France who were involved in</p> <p>20 developing the product.</p> <p>21 Q In forming your opinions in this case, are</p> <p>22 you relying on the articles that Cosson and Jacquetin</p> <p>23 and their group of physicians in France have published?</p> <p>24 A That's part of the literature, yes.</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 Q Do you feel that the literature that was put 2 out by Jacquetin and Cosson and their group of 3 physicians is an important source of information about 4 the Prolift?</p> <p>5 A It's one of many sources, yes.</p> <p>6 Q Do you know what Bernard Jacquetin and 7 Michelle Cosson were telling Ethicon in 2004 and 2005 8 with regard to the Prolift and whether they thought the 9 mesh was an appropriate mesh to use in the Prolift?</p> <p>10 A No.</p> <p>11 Q Is that of any significance to you?</p> <p>12 A No.</p> <p>13 Q Have you seen any literature written by 14 Jacquetin or Cosson indicating that the use of the 15 Prolift should be limited to certain types of patients?</p> <p>16 A Yes. I remember reading one of the first 17 descriptions of the product, and they were remarking 18 that they thought it should be used for advanced stage 19 prolapse.</p> <p>20 Q Do you agree with that?</p> <p>21 A No.</p> <p>22 Q Do you know what Ethicon's internal thoughts 23 were with regard to whether the Prolift should be 24 limited to advanced stage prolapse?</p> | <p style="text-align: right;">Page 36</p> <p>1 information from doctors about their mesh devices?</p> <p>2 A Do I know what they do to get information 3 from doctors? I'm not sure what you are asking, what 4 you mean by that question.</p> <p>5 Q Let me ask you this: Do you know who within 6 Ethicon evaluates the safety of the Prolift?</p> <p>7 A I don't.</p> <p>8 Q Do you know what Ethicon did to evaluate the 9 safety of the Prolift on a day-to-day basis once it 10 went on the market?</p> <p>11 A I don't.</p> <p>12 Q Was that of any interest to you?</p> <p>13 A No.</p> <p>14 Q Asked to see any information that Ethicon had 15 compiled internally about the safety or the efficacy of 16 the Prolift?</p> <p>17 A Could you repeat the question?</p> <p>18 Q To see any information that Ethicon had 19 compiled --</p> <p>20 A I'm sorry --</p> <p>21 Q -- internally --</p> <p>22 A -- you keep -- the beginning of your question 23 keeps falling out.</p> <p>24 Q It may be that my voice doesn't start to pick</p> |
| <p style="text-align: right;">Page 35</p> <p>1 A I don't.</p> <p>2 Q Is that of any significance to you?</p> <p>3 A No.</p> <p>4 Q Do you believe you have access to the same 5 amount of data and information about the risks and 6 benefits of the Prolift as Ethicon does?</p> <p>7 A No.</p> <p>8 Q You -- would you agree with me that Ethicon 9 has access to more information about the risks and 10 benefits of the Prolift than you do?</p> <p>11 A I believe that they have access to more 12 information in regards to the development of the 13 product, but I've used the product in clinical 14 practice, and so I believe that I have information with 15 regards to that that they might not have. So I do 16 think that they have more information about its 17 development, yes.</p> <p>18 Q Did you ever tell Ethicon anything about the 19 outcomes you had with your patients? Did you ever 20 discuss that with anybody from Ethicon? I'm talking 21 about Prolift patients.</p> <p>22 A I don't remember. Not outside of my 23 research.</p> <p>24 Q Do you know what Ethicon does to get</p> | <p style="text-align: right;">Page 37</p> <p>1 up until after I say the first few words. Is that 2 what's happening?</p> <p>3 A Yes.</p> <p>4 MR. ISMAIL: In part. Sometimes that 5 happens and we can follow along. Sometimes 6 the first few words just don't come through 7 at all, and we just start picking you up in 8 mid sentence. It hasn't happened every 9 question, and we've alerted you when it's 10 happened.</p> <p>11 MR. SLATER: All right, I'm going to 12 start to say, "My next question." It's going 13 to be cumbersome, but hopefully that will 14 help. Because I think what happens is the 15 mic picks up the speaker and it takes a 16 second for it to transfer to the other 17 speaker. So I'm just going to start saying, 18 "My next question." Don't -- I don't want 19 you to think I'm like lecturing you.</p> <p>20 THE WITNESS: Okay.</p> <p>21 MR. SLATER: I'm just going to do it so 22 the mic will pick up.</p> <p>23 THE WITNESS: Okay.</p> <p>24 (Discussion off the written record.)</p> |

10 (Pages 34 to 37)

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| <p style="text-align: right;">Page 38</p> <p>1 Q (By Mr. Slater) My next question: Did you 2 make any effort to learn what information Ethicon had 3 internally compiled regarding the safety or the 4 efficacy of the Prolift? 5 A No. 6 Q Would that have been of any significance to 7 you? 8 A No. 9 Q You -- let me rephrase. 10 My next question: Do you consider yourself 11 to be an expert with regard to the design of the 12 Prolift or a pelvic mesh system like the Prolift? 13 MR. ISMAIL: Objection to form. 14 THE WITNESS: I'm not sure what you mean 15 by that. I think that I'm an expert in the 16 way that the Prolift works, yes. 17 Q (By Mr. Slater) My next question: Do you 18 have any information at all that you're relying on at 19 all as an expert in this case about the steps that are 20 taken and were actually taken with the design and the 21 development of the Prolift by Ethicon? 22 A Yes, I do. 23 Q What's that? 24 A I understand some of the biomaterial science</p> | <p style="text-align: right;">Page 40</p> <p>1 A I don't. 2 Q A DDSA is? 3 THE WITNESS: He keeps dropping off. 4 You keep falling off -- 5 Q (By Mr. Slater) Let me ask you this -- 6 ma'am, it's okay. It's fine. You don't have to get 7 frustrated. It's not -- it's a technical problem with 8 us talking from a thousand miles away from each other. 9 A No, I understand. I'm not frustrated. 10 Q If I have to repeat a question -- 11 A I'm just informing you. 12 Q -- it's not a big deal. It's fine. 13 Okay. My next question is: Do you know what 14 a DDSA is? 15 A No. 16 Q Okay. My next question: Do you know what a 17 clinical expert report is as that is used within 18 Ethicon? 19 A I don't. 20 Q Okay. You said that you are familiar with 21 some biomaterial science that went into the development 22 of the mesh through the literature, right? 23 A That's correct. 24 Q Are you familiar with the literature by</p> |
| <p style="text-align: right;">Page 39</p> <p>1 that went into developing the mesh that's used with the 2 Prolift, and that information has been obtained through 3 the literature. 4 Q Anything else? 5 A No. 6 Q My next question: Do you know anything about 7 the steps that Ethicon took as a device manufacturer to 8 develop the Prolift, the internal steps that they went 9 through to get from the point when somebody brought the 10 idea to them to the point they put it on the market? 11 Do you know anything about that process at all? 12 MR. ISMAIL: Objection to form. 13 THE WITNESS: Could you be more 14 specific? 15 MR. SLATER: Sure. 16 Q (By Mr. Slater) Do you know what design 17 control is? 18 A I don't. 19 Q Do you know what design requirements matrix 20 is? 21 A I don't. 22 Q FMEA is? 23 A You -- I missed part of that. 24 Q Do you know what an FMEA is?</p> | <p style="text-align: right;">Page 41</p> <p>1 Dr. Klinge? K-L-I-N-G-E. Are you familiar with his 2 literature? 3 A Yes. 4 Q Do you -- new question: Do you rely in part 5 on Dr. Klinge's literature about the mesh in the 6 Prolift in forming your opinions? 7 A Yes. 8 Q Do you find Dr. Klinge's literature to be 9 important in this field? 10 A Yes. 11 Q Let me ask you this: Do you know what 12 Dr. Klinge's opinions are about whether or not the mesh 13 in the Prolift is safe for transvaginal treatment of 14 prolapse? 15 A Yes. 16 MR. ISMAIL: Objection to form. Go 17 ahead. 18 THE WITNESS: Yes. 19 Q (By Mr. Slater) Klinge's opinion? 20 MR. ISMAIL: Restate, please. 21 THE WITNESS: I think it's actually -- 22 MR. SLATER: My next question -- 23 THE WITNESS: -- better when his head is 24 down.</p> |

11 (Pages 38 to 41)

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| <p style="text-align: right;">Page 42</p> <p>1 MS. DEMING: Okay.</p> <p>2 THE WITNESS: I think it's better when</p> <p>3 his head is down.</p> <p>4 Q (By Mr. Slater) Okay. My next question:</p> <p>5 What is your understanding of Dr. Klinge's opinion</p> <p>6 about whether or not the mesh in the Prolift is safe</p> <p>7 for treatment of pelvic organ prolapse through the</p> <p>8 vagina?</p> <p>9 A I don't know if he stated specifically that</p> <p>10 it was or was not safe. My impression is that he feels</p> <p>11 that the evidence that he has participated in creating</p> <p>12 is not relevant for the mesh that was used in the</p> <p>13 Prolift.</p> <p>14 Q I'm sorry, let me just ask you a question.</p> <p>15 When you say "he feels his evidence is not relevant" --</p> <p>16 A Uh-huh.</p> <p>17 Q -- what do you mean by that?</p> <p>18 A When I was reviewing his report, he remarked</p> <p>19 that the biomaterial science that he helped to generate</p> <p>20 is not relevant for the Gynemesh because they were</p> <p>21 looking at biomaterial science as it related to the</p> <p>22 abdominal -- an abdominal hernia. And he felt that a</p> <p>23 model for vaginal hernias should be the paradigm that</p> <p>24 should be used to establish whether or not the mesh was</p> | <p style="text-align: right;">Page 44</p> <p>1 for them?</p> <p>2 A No, I don't.</p> <p>3 Q Do you have any idea what they've paid him?</p> <p>4 A No.</p> <p>5 Q If I told you that Dr. Lucente testified he's</p> <p>6 been paid 1.7 million dollars, would that surprise you?</p> <p>7 MR. ISMAIL: Objection to form.</p> <p>8 THE WITNESS: Would that surprise me?</p> <p>9 It's a big number.</p> <p>10 Q (By Mr. Slater) Looking at this set of</p> <p>11 emails, you see that in the first email in the chain,</p> <p>12 which is at the bottom of the page, someone name Bart</p> <p>13 Pattyson from professional education is writing to</p> <p>14 Dr. Lucente, and he wants to schedule some sort of a</p> <p>15 dinner in Indianapolis. Do you see that?</p> <p>16 A That's the same email I'm looking at now?</p> <p>17 Yes, I think so.</p> <p>18 Q He suggests inviting Douglass Hale to the</p> <p>19 dinner?</p> <p>20 A Uh-huh, yes.</p> <p>21 Q You did your fellowship with Doug Hale in</p> <p>22 Indianapolis, right?</p> <p>23 A That's correct.</p> <p>24 Q Were you aware, when you were training with</p> |
| <p style="text-align: right;">Page 43</p> <p>1 safe for use with a vaginal hernia.</p> <p>2 Q Okay. So you're not -- let me just</p> <p>3 understand. So you're not aware of whether Dr. Klinge</p> <p>4 has offered an opinion directly about whether or not</p> <p>5 the mesh in the Prolift is safe for use to treat</p> <p>6 Prolift -- prolapse through the Prolift system?</p> <p>7 A That's correct.</p> <p>8 Q Based on -- let me just ask you this: Based</p> <p>9 on Dr. Klinge's work in this field, would that opinion</p> <p>10 be significant to you?</p> <p>11 A It would be something that I would consider,</p> <p>12 yes.</p> <p>13 MR. SLATER: If we could, can we hand</p> <p>14 Dr. Lowman Exhibit 17, please.</p> <p>15 MR. ISMAIL: Thank you.</p> <p>16 Q (By Mr. Slater) Okay, Doctor, do you see</p> <p>17 Exhibit 17 that we've handed to you?</p> <p>18 A Yes.</p> <p>19 Q You see these are some emails in September</p> <p>20 2007 between some people at Ethicon named Bart Pattyson</p> <p>21 and Paul Parisi and Dr. Lucente? Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Have you ever known about the amount of money</p> <p>24 that Ethicon has paid Dr. Lucente as a paid consultant</p> | <p style="text-align: right;">Page 45</p> <p>1 Dr. Hale, that he was a paid Ethicon consultant?</p> <p>2 A I was not.</p> <p>3 Q Did you know that before right now?</p> <p>4 A I did not know that before right now.</p> <p>5 Q Looking now -- I'm sorry, looking now at the</p> <p>6 second email in the chain, which is actually just</p> <p>7 towards the top at 3:44 p.m. on September 11, 2007, do</p> <p>8 you see Dr. Lucente's email to Bart Pattyson?</p> <p>9 A Yes.</p> <p>10 Q Okay. Dr. Lucente talks about the fact that</p> <p>11 the last time he tried a venue like they're proposing</p> <p>12 for this meeting, Dr. Hale "flipped, totally got pissed</p> <p>13 off. It was ugly. He has some issues. We are cool</p> <p>14 now, but it was insightful as to where his head is at."</p> <p>15 Do you know what that's -- what that's talking about at</p> <p>16 all?</p> <p>17 A I don't.</p> <p>18 Q Okay. Now, looking further into that email</p> <p>19 of September 11 at 3:44 p.m., Dr. Lucente says,</p> <p>20 "Lastly, his senior fellow, Joye Lowman, was a resident</p> <p>21 of mine from Abington. Like Steph, well, needless to</p> <p>22 say, her loyalty to me was a friction point." Do you</p> <p>23 see that?</p> <p>24 A I see that.</p> |

12 (Pages 42 to 45)

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| <p style="text-align: right;">Page 46</p> <p>1 Q Do you know what Dr. Lucente is talking about</p> <p>2 there?</p> <p>3 MR. ISMAIL: Objection to form.</p> <p>4 THE WITNESS: I don't.</p> <p>5 Q (By Mr. Slater) Do you consider yourself to</p> <p>6 have a level of loyalty to Dr. Lucente that it caused</p> <p>7 friction with Dr. Hale in any way?</p> <p>8 A Not that I'm aware of.</p> <p>9 Q Okay. Where Dr. Lucente says that you had</p> <p>10 loyalty to him, would you agree with that statement?</p> <p>11 MR. ISMAIL: Objection to form.</p> <p>12 THE WITNESS: I don't know what he means</p> <p>13 by that. I respect Dr. Lucente, but I don't</p> <p>14 know what he means by loyalty to him.</p> <p>15 Q (By Mr. Slater) Let me ask you a question:</p> <p>16 Has Dr. Lucente ever indicated to you that he would</p> <p>17 talk to Ethicon about you in emails or in any</p> <p>18 conversations? Did you know that you were a subject of</p> <p>19 communications with Ethicon about you?</p> <p>20 A In the last deposition that I participated</p> <p>21 in, they showed an email where Dr. Lucente had reached</p> <p>22 out to someone about my employment. That's the only</p> <p>23 thing that I'm aware of.</p> <p>24 MR. SLATER: If we could, Jon, could we</p> | <p style="text-align: right;">Page 48</p> <p>1 fellowship in Indianapolis, is that accurate?</p> <p>2 A Well, I mentioned before that he wrote me a</p> <p>3 letter of recommendation. To my knowledge, that's all</p> <p>4 that he did.</p> <p>5 Q One other question: Did Dr. Lucente write</p> <p>6 letters of recommendation for you that you were able to</p> <p>7 send to whatever fellowships you were applying to, or</p> <p>8 was it just to this specific one at your request?</p> <p>9 A To whatever fellowships I was applying to.</p> <p>10 Q So was it like a standard letter about you</p> <p>11 and then you could give it to whatever fellowship you</p> <p>12 wanted to as part of your application process?</p> <p>13 A That's correct.</p> <p>14 Q So are you surprised to see Dr. Lucente sort</p> <p>15 of taking credit for helping you get that fellowship?</p> <p>16 Do you think that's overstating things a little bit?</p> <p>17 MR. ISMAIL: Objection to form.</p> <p>18 THE WITNESS: He wrote the letter of</p> <p>19 recommendation for me. I don't have any</p> <p>20 opinion beyond that.</p> <p>21 Q (By Mr. Slater) Okay. When you -- when you</p> <p>22 got the fellowship with Dr. Hale, did he tell you</p> <p>23 anything about whether or not Dr. Lucente's</p> <p>24 recommendation was of any significance to him in giving</p> |
| <p style="text-align: right;">Page 47</p> <p>1 show Dr. Lowman Exhibit 18.</p> <p>2 Q (By Mr. Slater) Okay. Doctor, I've given</p> <p>3 you Exhibit 18, which is some emails in June of 2009.</p> <p>4 A Uh-huh.</p> <p>5 Q And in the middle of the page is one from a</p> <p>6 guy named Robert Zipfel, a professional education</p> <p>7 manager at Ethicon, to Vince Lucente. And he's asking</p> <p>8 Dr. Lucente if he's interested in going to Atlanta,</p> <p>9 Georgia on a Thursday for a 3 o'clock p.m. Prolift</p> <p>10 surgery with you and other physicians at Northside</p> <p>11 Hospital followed by a dinner lecture on Prolift. Do</p> <p>12 you see that?</p> <p>13 A I see that.</p> <p>14 Q And do you recall being approached by Ethicon</p> <p>15 to be involved in performing a Prolift surgery that</p> <p>16 Ethicon would sponsor and then it would be connected to</p> <p>17 a dinner Ethicon would sponsor?</p> <p>18 A I don't remember that.</p> <p>19 Q Okay. And looking up above, you see where</p> <p>20 Dr. Lucente says that you are his former resident and</p> <p>21 you [sic] "helped her secure her fellowship in</p> <p>22 Indianapolis." Do you see that?</p> <p>23 A I see that.</p> <p>24 Q And when he says he helped secure your</p> | <p style="text-align: right;">Page 49</p> <p>1 you that fellowship?</p> <p>2 A No.</p> <p>3 MR. SLATER: Okay, can we give</p> <p>4 Dr. Lowman Exhibit 7, please.</p> <p>5 MR. ISMAIL: Adam, it's been about an</p> <p>6 hour, if we can take a break when it's -- if</p> <p>7 this is going to be a short exhibit, we can</p> <p>8 finish it up. If you're going to be a while,</p> <p>9 maybe we'll take a break now.</p> <p>10 MR. SLATER: Are we saying we have to</p> <p>11 take a break every hour?</p> <p>12 MR. ISMAIL: I'm not saying that. I'm</p> <p>13 just asking if we can have a break. If this</p> <p>14 is going to be a long exhibit, we can take it</p> <p>15 now. If this will be a short exhibit, we'll</p> <p>16 take it after.</p> <p>17 (Discussion off the written record.)</p> <p>18 Q (By Mr. Slater) Okay, Doctor, I've given you</p> <p>19 Exhibit 7, which is a set of email -- which actually is</p> <p>20 an email from Scott Finley, who's a division manager in</p> <p>21 the sales department at Ethicon, and it's the day after</p> <p>22 the exhibit we just went through. It's now June 16,</p> <p>23 2009.</p> <p>24 A Okay.</p> |

13 (Pages 46 to 49)

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|---|--|
| <p style="text-align: right;">Page 50</p> <p>1 Q And you see it's about the Lucente Advanced 2 Prolift Users Program?</p> <p>3 A Yes.</p> <p>4 Q And you -- do you know any of the people in 5 the email up above where it says "From" and "To" and 6 the cc's? Do you know any of those people or did you 7 know any of them?</p> <p>8 A None of these names ring a bell other than 9 possibly Robert Zipfel, but I don't -- I don't remember 10 why that names looks familiar to me.</p> <p>11 Q Okay. Robert Zipfel was in the sales 12 department. Does that ring a bell to you? He was -- 13 he was -- he oversaw sales.</p> <p>14 A In Indianapolis? I mean, that's the only 15 thing I could think as why that name would look 16 familiar to me.</p> <p>17 Q The email says that this guy Scott Finley 18 "attached a target list for each of you to complete and 19 return for me for our Advanced Prolift Program with 20 Dr. Lucente." They're setting -- you can see they're 21 trying to fix the date, and he gives some 22 responsibilities to some of the people on the email for 23 helping to set up this event. Do you see that?</p> <p>24 A Yes.</p> | <p style="text-align: right;">Page 52</p> <p>1 doctors, and they want to go heavy on the competitive 2 folks.</p> <p>3 And if you go further down to the proctorship 4 targets, they talk about who they want, "Prolift users, 5 +M users, and any busy competitive doctors who want to 6 learn Prolift. You-all need to discuss this program 7 with every mesh doctor in Atlanta. Seize the moment 8 and let's conquer." Do you see that?</p> <p>9 A I do.</p> <p>10 Q Let me ask you this: Before right now, are 11 you saying you had no idea that Ethicon was scheduling 12 this proctorship where they were planning to have you 13 operate with Dr. Lucente in an effort to conquer 14 doctors and create new customers for the Prolift?</p> <p>15 MR. ISMAIL: Objection.</p> <p>16 Q (By Mr. Slater) Are you saying that you knew 17 nothing about this until I showed you this email?</p> <p>18 MR. ISMAIL: Objection to form.</p> <p>19 THE WITNESS: I don't remember anything 20 like this. I don't know if there was a 21 discussion maybe with Dr. Lucente and some of 22 these reps about coordinating this, and then 23 he was going to reach out to me to get it -- 24 to get it together and maybe that part never</p> |
| <p style="text-align: right;">Page 51</p> <p>1 Q And then he says, "Below is the plan. 2 Thursday (date to be announced), 3 p.m., Prolift 3 proctorship at Northside with Dr. Joye Lowman, and we 4 will need to get credentialing for Dr. Lucente to scrub 5 in. Also need room for eight surgeons to observe." 6 And then at 7 p.m. would be a dinner, Prolift users and 7 competitive doctors. Do you see that?</p> <p>8 A I see that.</p> <p>9 Q Does this refresh your recollection that you 10 had spoken with Ethicon and agreed to participate in a 11 proctorship for the Prolift in 2009?</p> <p>12 A No, I don't remember that.</p> <p>13 Q Are you saying that they were scheduling this 14 without even talking to you?</p> <p>15 MR. ISMAIL: Objection to form.</p> <p>16 THE WITNESS: What I'm saying is I don't 17 remember that.</p> <p>18 Q (By Mr. Slater) This -- I'm sorry, this 19 email is 2009. This would have been in the year after 20 you finished your fellowship, correct?</p> <p>21 A That's correct.</p> <p>22 Q And this talks about further down, "Dinner 23 targets: Need Prolift users, +M users, and competitive 24 users as well." And they want to get at least 30 to 40</p> | <p style="text-align: right;">Page 53</p> <p>1 happened. I don't know. But I don't 2 remember anything like that.</p> <p>3 Q (By Mr. Slater) Let me ask you this: Was 4 there ever a time where you did a proctorship in 5 Atlanta where you operated and did a Prolift procedure 6 either with or without Dr. Lucente and other doctors 7 observed it through Ethicon? Did that ever happen?</p> <p>8 MR. ISMAIL: Objection. Asked and 9 answered.</p> <p>10 THE WITNESS: No, I don't remember that 11 ever happening.</p> <p>12 Q (By Mr. Slater) Let me ask you this: Do you 13 have any idea why it is that these people at Ethicon 14 thought that they were going to be able to use a 15 procedure performed by you as a Prolift proctorship and 16 to have Dr. Lucente participate in that? Do you have 17 any idea how your name got into this and how they 18 thought you would participate?</p> <p>19 MR. ISMAIL: Objection to form.</p> <p>20 THE WITNESS: I would have to suspect. 21 I would think that maybe Dr. Lucente thought 22 I'd be able to do something like this, but I 23 don't remember participating in anything like 24 this at all.</p> |

14 (Pages 50 to 53)

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1 Q (By Mr. Slater) Let me ask you this: Do you
2 have any recollection of Dr. Lucente ever speaking to
3 you about such an event?

4 A I don't remember him -- but that -- I mean,
5 that was, what, a long time ago. I can't add. Six
6 years ago.

7 Q Let me ask you this: Have you ever -- I'm
8 sorry. Have you ever done any sort of a proctorship or
9 a preceptorship where you have participated in an event
10 in connection with any mesh device or mesh procedure in
11 connection with a manufacturer where you were training
12 other doctors or showing other doctors anything about a
13 procedure?

14 A Outside of fellowship, no.

15 MR. SLATER: All right, if you want to
16 take a break now, we can do a break now.

17 MR. ISMAIL: Great.

18 THE VIDEOGRAPHER: We are now going off
19 the video record. The time is currently
20 11:26 a.m. This is the end of Tape No. 1.

21 (Recess taken.)

22 THE VIDEOGRAPHER: We are now back on
23 the video record with Tape No. 2. The time
24 is currently 11:40 a.m.

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1 Q (By Mr. Slater) Okay. All right, Doctor, if
2 you could, let's look back at your report, Exhibit 1.

3 A Okay.

4 Q And if you could, let's go to the second
5 page.

6 A Okay.

7 Q In the first page over to the second page,
8 you talk about that you started the urogynecology
9 department at Southeast Permanente Medical Group of
10 Kaiser Permanente Georgia in 2008. Do you see that?

11 A Yes.

12 Q What does that mean?

13 A That means that they did not have a
14 urogynecology department before I came and started it.

15 Q Let me ask you: When you say they didn't
16 have a department, does that mean they didn't have a
17 urogynecologist on staff?

18 A That means they didn't have a department.
19 They also did not have a urogynecologist on staff, but
20 they did not have a department either.

21 Q Well, if they didn't have a urogynecologist
22 on staff before you joined their staff, they couldn't
23 have a urogynecology department, right?

24 A Correct.

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1 Q Okay. So you -- so you joined this medical
2 practice, and how large is the medical practice, how
3 many doctors?

4 A Two.

5 Q Okay. And is it two doctors currently, or
6 was it two at the time, or has it always been two?

7 A It was just me when I first started there,
8 and now it's two.

9 Q How did you get that job? What happened to
10 get you into that position?

11 A One of my colleagues and I were talking.
12 She's actually from Indianapolis and she -- I was
13 talking about the fact that I wanted to move to Atlanta
14 or I was considering moving to Atlanta, and she asked
15 me what I was doing. I told her about my fellowship,
16 and she said, "Oh, that sounds like a skillset that we
17 could use at Kaiser." And so she passed my CV a long
18 to the chief of the department at the time.

19 Q Now, when you say "the department," is this
20 at a particular hospital?

21 A No. This is at Kaiser. The chief of the
22 women's services department.

23 Q Tell me -- okay. Tell me what Kaiser is.

24 A Kaiser is a health management organization

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1 where physicians are hired to take care of patients who
2 have Kaiser insurance.

3 Q Okay. And so it's a group of doctors, and
4 then if somebody is part of the Kaiser health insurance
5 company, basically, they go to the doctors that are
6 hired by that company?

7 A That's correct.

8 Q Okay. And you indicate that there's 250,000
9 members of this -- I guess it's a health insurance
10 company?

11 A Right.

12 Q Okay. The 250,000 members, they're not all
13 potential patients of yours; that includes everybody,
14 men, women, children, the whole gamut, right?

15 A That's correct.

16 Q Okay. How many of the 250,000 members are
17 actually urogynecology patients?

18 A I don't know.

19 Q Okay. Do you have privileges at a particular
20 hospital?

21 A Yes.

22 MR. GOODALL: Repeat that, Adam.

23 Q (By Mr. Slater) You have privileges at a
24 hospital. Which hospital is it?

15 (Pages 54 to 57)

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|---|---|
| <p style="text-align: right;">Page 58</p> <p>1 A Northside Hospital, Piedmont Hospital, and</p> <p>2 Gwinnett Medical Center, as well as Atlanta Outpatient</p> <p>3 Surgery Center.</p> <p>4 Q Okay. Northside Hospital, how many beds is</p> <p>5 that hospital?</p> <p>6 A I don't know.</p> <p>7 Q Okay. Let me ask you this: How many</p> <p>8 urogynecologists are on staff at Northside?</p> <p>9 A I don't know how many urogynecologists are on</p> <p>10 staff there. It's a very busy hospital. They deliver</p> <p>11 over 5,000 babies a year, but I don't -- I don't know</p> <p>12 the answer to that question.</p> <p>13 Q When you operate, where do you operate, at</p> <p>14 all three or at one in particular of those hospitals?</p> <p>15 A At all three.</p> <p>16 Q Okay. Piedmont, how many beds is that</p> <p>17 hospital?</p> <p>18 A I don't know.</p> <p>19 Q How many urogynecologists are on staff at</p> <p>20 Piedmont?</p> <p>21 A None now besides myself. Actually, my</p> <p>22 partner, my partner and I both have privileges there.</p> <p>23 So the only -- the only ones --</p> <p>24 Q Who's your --</p> | <p style="text-align: right;">Page 60</p> <p>1 MR. SLATER: Sure.</p> <p>2 Q (By Mr. Slater) Have you been a peer</p> <p>3 reviewer for any medical journal?</p> <p>4 A I don't remember.</p> <p>5 Q Okay. Let me ask you this: When you were a</p> <p>6 fellow, did you have teaching responsibilities as part</p> <p>7 of your fellowship?</p> <p>8 A Yes.</p> <p>9 Q Other than in your fellowship, have you had</p> <p>10 any teaching appointments?</p> <p>11 A I have not had any appointments. I have been</p> <p>12 involved in teaching, yes.</p> <p>13 Q What do you mean by that?</p> <p>14 A There are Emory residents that rotate through</p> <p>15 Piedmont Hospital from the OB/GYN department, and</p> <p>16 sometimes they will observe or assist with surgical</p> <p>17 cases.</p> <p>18 Q Do you -- let me ask you this: Do you have</p> <p>19 any sort of a teaching appointment with Emory?</p> <p>20 A No.</p> <p>21 Q So they'll observe a procedure you might</p> <p>22 perform, but you're not actually -- you don't have an</p> <p>23 appointment to actually be an instructor of any of</p> <p>24 these residents --</p> |
| <p style="text-align: right;">Page 59</p> <p>1 A -- the only ones I'm aware of --</p> <p>2 Q Go ahead. I'm sorry.</p> <p>3 A There are two that are on staff there that</p> <p>4 I'm aware of.</p> <p>5 Q Just for the record, who's your partner?</p> <p>6 A She is the person that we hired once we</p> <p>7 decided that we needed to expand the department to</p> <p>8 include another physician besides myself. Are you</p> <p>9 asking her name?</p> <p>10 Q Okay. What's -- yes.</p> <p>11 A Dr. Saguan.</p> <p>12 Q And when was she hired?</p> <p>13 A 2012. 2012, I believe.</p> <p>14 Q Let me ask you this: Do you currently have</p> <p>15 any teaching appointments?</p> <p>16 A No.</p> <p>17 Q Do you currently act as a peer reviewer for</p> <p>18 any medical journal?</p> <p>19 A No.</p> <p>20 Q As a peer reviewer for any medical journal?</p> <p>21 MR. ISMAIL: Restate, please.</p> <p>22 Q (By Mr. Slater) For any medical journal in</p> <p>23 your career?</p> <p>24 MR. ISMAIL: Once again, please.</p> | <p style="text-align: right;">Page 61</p> <p>1 A I don't get --</p> <p>2 Q -- is that accurate?</p> <p>3 A I don't get paid to teach them, no.</p> <p>4 Q And you don't have a particular appointment</p> <p>5 where you're some sort of an assistant or associate</p> <p>6 professor or anything at a medical school, you don't</p> <p>7 have those appointments?</p> <p>8 A That's correct.</p> <p>9 Q Okay. Let me ask you this: On page 2, you</p> <p>10 give some figures, and I want to understand them a</p> <p>11 little bit.</p> <p>12 A Okay.</p> <p>13 Q You indicate -- you indicate that you have</p> <p>14 performed well over 2700 procedures. Do you see that?</p> <p>15 A Yes.</p> <p>16 Q All right. I want to understand how that</p> <p>17 breaks down. Just below that, you say you've done 150</p> <p>18 surgeries using the Prolift. Is that accurate?</p> <p>19 A That's accurate, uh-huh, approximately.</p> <p>20 Q So is that -- rephrase.</p> <p>21 The Prolift procedures, the 150 figure, does</p> <p>22 that include Prolifts that you participated in as a</p> <p>23 resident and a fellow?</p> <p>24 A Yes.</p> |

16 (Pages 58 to 61)

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|---|--|
| <p style="text-align: right;">Page 62</p> <p>1 Q How many of the Prolifts that you did were</p> <p>2 you participating in as a resident, how many of the</p> <p>3 150?</p> <p>4 A I'm sorry, there were none during residency.</p> <p>5 They were during fellowship.</p> <p>6 Q Okay. How many of your -- let me rephrase.</p> <p>7 How many of the 150 Prolift procedures</p> <p>8 occurred during your fellowship?</p> <p>9 A Approximately 80.</p> <p>10 Q And let me ask you: In your fellowship when</p> <p>11 you were participating in the approximately 80 Prolift</p> <p>12 procedures, would you have been the primary surgeon, or</p> <p>13 would you have been assisting either Dr. Hale or</p> <p>14 somebody else?</p> <p>15 A The primary surgeon.</p> <p>16 Q Okay. Now, your fellowship ended in 2008, so</p> <p>17 the 80 procedures that you're talking about would have</p> <p>18 been from 2005 to 2008?</p> <p>19 A That's correct.</p> <p>20 Q During 2005 to 2008, what other procedures</p> <p>21 were you performing to treat pelvic organ prolapse</p> <p>22 besides the Prolift?</p> <p>23 A Abdominal sacrocolpopexy, high uterosacral</p> <p>24 ligament suspension, laparoscopic abdominal</p> | <p style="text-align: right;">Page 64</p> <p>1 A I honestly don't remember.</p> <p>2 Q Let me try to refresh your recollection. The</p> <p>3 Elevate?</p> <p>4 A No.</p> <p>5 Q The Apogee, the Perigee, the Avaulta?</p> <p>6 A I don't remember --</p> <p>7 Q The Pinnacle?</p> <p>8 A -- specifically. I remember that we did not</p> <p>9 use Elevate or Pinnacle. I don't remember the others</p> <p>10 that we used.</p> <p>11 Q Let me ask you this: In either your</p> <p>12 fellowship or your private practice, have you used</p> <p>13 Gynemesh PS flat mesh where you've cut the mesh and</p> <p>14 used it in treating prolapse?</p> <p>15 A Yes, frequently.</p> <p>16 Q Would that be an abdominal sacrocolpopexy?</p> <p>17 A Yes.</p> <p>18 Q How about through the vagina, have you used</p> <p>19 Gynemesh PS flat mesh that you've cut and used</p> <p>20 transvaginally to treat prolapse?</p> <p>21 A No.</p> <p>22 Q In your current practice when you do</p> <p>23 abdominal sacrocolpopexy, what type of mesh do you use?</p> <p>24 A Gynemesh.</p> |
| <p style="text-align: right;">Page 63</p> <p>1 sacrocolpopexy.</p> <p>2 Q Did you perform colporrhaphy during your</p> <p>3 fellowship?</p> <p>4 A I'm sure that I did.</p> <p>5 Q Okay. Now, based on the figures you gave,</p> <p>6 after your fellowship, beginning in -- when you got out</p> <p>7 in 2008 going forward, that would mean you performed</p> <p>8 approximately 70 Prolifts going forward after that</p> <p>9 time, correct?</p> <p>10 A That's correct.</p> <p>11 Q Can you tell me when you last did a Prolift</p> <p>12 procedure?</p> <p>13 A I don't remember exactly.</p> <p>14 Q Can you tell me approximately when it was,</p> <p>15 what year it was, that you last performed a Prolift?</p> <p>16 A I don't remember.</p> <p>17 Q Let me ask you this: Did you ever use the</p> <p>18 Prolift+M?</p> <p>19 A No.</p> <p>20 Q Did you ever use a mesh kit other than the</p> <p>21 Prolift to treat prolapse?</p> <p>22 A Not outside of fellowship, no.</p> <p>23 Q Okay. In fellowship, what else did you</p> <p>24 utilize, what other mesh kit?</p> | <p style="text-align: right;">Page 65</p> <p>1 Q Do you use any other types of mesh?</p> <p>2 A I have used. I've used Smartmesh.</p> <p>3 Q Any other meshes?</p> <p>4 A I believe I've used IntePro as well.</p> <p>5 Q Okay. When you -- when you do an abdominal</p> <p>6 sacrocolpopexy procedure and you cut a portion of</p> <p>7 Gynemesh PS flat mesh, what are the dimensions of the</p> <p>8 mesh that you actually leave in the body?</p> <p>9 A It's usually -- it's approximately 4-by-15</p> <p>10 centimeters.</p> <p>11 Q When you cut Gynemesh PS and use it in</p> <p>12 abdominal sacrocolpopexy, it's in a rectangular shape?</p> <p>13 A Sort of. It's kind of a rectangular strip.</p> <p>14 Q Once you've cut it and fashioned it, it will</p> <p>15 be basically a rectangular strip that you'll implant?</p> <p>16 A Yeah.</p> <p>17 Q In your career, have you been involved in</p> <p>18 treating complications with Prolift from other doctors</p> <p>19 who had implanted it, where the patient would come to</p> <p>20 you with Prolift complications?</p> <p>21 A I'm sure I have.</p> <p>22 Q How many times?</p> <p>23 A I don't remember.</p> <p>24 Q Is there anything you remember about any of</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 those patients in terms of the complications you 2 treated?</p> <p>3 A You're asking me about people that were sent 4 to us from outside of our practice, or are you asking 5 in general?</p> <p>6 Q What I'm asking you is where a patient came 7 to you, not necessarily sent to you, because some 8 patients self-refer --</p> <p>9 A Uh-huh.</p> <p>10 Q -- where a patient came to you with 11 complications from a Prolift and you didn't implant it. 12 And I'm asking how many of those, if you recall, and 13 what types of complications you saw.</p> <p>14 A I don't remember how many that would be, but 15 I'm sure I've seen that.</p> <p>16 Q Can you estimate the number of times patients 17 have come to you with complications from a Prolift that 18 was implanted by another doctor?</p> <p>19 A I can't estimate that. I don't know.</p> <p>20 Q Less than 10?</p> <p>21 A I don't -- I honestly don't know.</p> <p>22 Q Than a thousand?</p> <p>23 A It's less than a thousand.</p> <p>24 Q Than a hundred?</p> | <p style="text-align: right;">Page 68</p> <p>1 A I can speak to the complications that I've 2 seen involving mesh in general. I don't remember which 3 patient had Prolift versus which patient had some other 4 type of mesh. I've seen complications from 5 transvaginal mesh, and I have treated them. Some of 6 them have been procedures that I did -- that we did in 7 my training program, and I have seen complications in 8 patients that I've treated since training. But I 9 cannot say which patients had Prolift and which 10 patients came from other doctors. I don't know the 11 answer to that.</p> <p>12 Q Let me ask you a question about your 13 practice. Because you're part of the Kaiser Permanente 14 organization, do you only treat patients that are 15 within that network?</p> <p>16 A Yes. Well, actually --</p> <p>17 Q So if a patient --</p> <p>18 A -- let me qualify that. That's not -- that's 19 not correct. In general, that is correct, but I do 20 have some patients that pay to see me who don't have 21 Kaiser insurance.</p> <p>22 Q Okay. Where patients have come to you in 23 your private practice with complications from a mesh 24 kit, were they all Kaiser patients?</p> |
| <p style="text-align: right;">Page 67</p> <p>1 MR. ISMAIL: Restate, please.</p> <p>2 Q (By Mr. Slater) Would it be less than a 3 hundred?</p> <p>4 MR. ISMAIL: Objection to form.</p> <p>5 THE WITNESS: It's less than a 6 hundred.</p> <p>7 MR. ISMAIL: Restate, please.</p> <p>8 Q (By Mr. Slater) Would it be less than 20?</p> <p>9 MR. ISMAIL: Objection to form.</p> <p>10 THE WITNESS: I honestly don't know.</p> <p>11 Q (By Mr. Slater) Can you tell me anything 12 about the complications you saw for those patients who 13 came to you with Prolift complications where the 14 Prolift was placed by another doctor?</p> <p>15 A It would be conjecture. I can speak 16 generally. I can't speak about specific patients and 17 who they came from.</p> <p>18 Q I don't care about specific names or where 19 they came from. I want to know about the complications 20 that you've treated for Prolift patients where they 21 were implanted by another doctor and came to you with 22 complications for treatment.</p> <p>23 A I can't speak to that.</p> <p>24 Q What you've seen?</p> | <p style="text-align: right;">Page 69</p> <p>1 A They were Kaiser patients at that time, yes.</p> <p>2 Q Okay. Let me ask you this: Going back to 3 your report, the 2,700 procedures, is that two hundred 4 and seven -- rephrase.</p> <p>5 The 2,700 procedures you listed, are those 6 2,700 prolapse procedures?</p> <p>7 A Prolapse and -- it's not all prolapse, no.</p> <p>8 Q It's prolapse, incontinence, or a 9 combination?</p> <p>10 A Correct.</p> <p>11 Q Of the 2,700 -- well, rephrase.</p> <p>12 Would that basically be 2,700 pelvic floor 13 repair procedures?</p> <p>14 A Yes.</p> <p>15 Q Okay. Of those 2,700, in looking at your 16 report a little further down, you said you've used mesh 17 in over 1200 procedures. Do you see that?</p> <p>18 A Yes.</p> <p>19 Q The 1200 would be your fellowship plus your 20 private practice?</p> <p>21 A Yes.</p> <p>22 Q And of that 1200, 150 are Prolift and the 23 rest would either be abdominal sacrocolpopexy or the 24 handful of other kits you used in your fellowship?</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 A And midurethral slings.</p> <p>2 Q Well, this says you've used mesh to treat</p> <p>3 pelvic organ prolapse -- oh, I see what you're saying.</p> <p>4 Okay. All right, let me -- I understand now. Of the</p> <p>5 2700 procedures, 1200 involved mesh of some sort,</p> <p>6 whether it was sacrocolpopexy, whether it was a</p> <p>7 Prolift, whether it was a midurethral sling --</p> <p>8 A Right.</p> <p>9 Q -- correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. So 1500 of the procedures would</p> <p>12 involve no mesh?</p> <p>13 A That's correct.</p> <p>14 Q What are those procedures? What do those</p> <p>15 include?</p> <p>16 A Those would include pelvic organ prolapse</p> <p>17 repairs that don't involve mesh, for instance, a high</p> <p>18 uterosacral ligament suspension or a colporrhaphy.</p> <p>19 Q Anything else?</p> <p>20 A Vaginal hysterectomy, colpocleisis.</p> <p>21 Q Anything else?</p> <p>22 A Surgeries to correct complications not</p> <p>23 necessarily just with mesh, but with other procedures.</p> <p>24 Q In treating incontinence, do you perform the</p> | <p style="text-align: right;">Page 72</p> <p>1 A I prefer the retropubic route.</p> <p>2 Q Why?</p> <p>3 A It has a higher success rate.</p> <p>4 Q Does it have a higher success rate in your</p> <p>5 hands, or are you saying the literature shows that?</p> <p>6 A Both.</p> <p>7 Q Do you not use the TVT-O because of any</p> <p>8 issues with safety?</p> <p>9 A No.</p> <p>10 Q You're not concerned about injuries in the</p> <p>11 obturator region that are not implicated with the TVT</p> <p>12 retropubic?</p> <p>13 MR. ISMAIL: Objection to form.</p> <p>14 THE WITNESS: That's not the main reason</p> <p>15 why I don't -- why I prefer to use the</p> <p>16 retropubic route, no.</p> <p>17 Q (By Mr. Slater) I understand it's not the</p> <p>18 main reason, but is that one of your considerations,</p> <p>19 one of your reasons for not using the TVT-O?</p> <p>20 A Is -- can you repeat what the risk was?</p> <p>21 Q Sure. Is one of the reasons that you do not</p> <p>22 use the TVT obturator in your practice because of</p> <p>23 concerns for safety due to the obturator route that's</p> <p>24 used and the fact that mesh is put into the obturator</p> |
| <p style="text-align: right;">Page 71</p> <p>1 Burch procedure?</p> <p>2 A I was trained to do that in fellowship. I do</p> <p>3 not do it now.</p> <p>4 Q Do you only use midurethral slings to treat</p> <p>5 incontinence now, or do you use other procedures as</p> <p>6 well?</p> <p>7 A To treat stress incontinence, that's my</p> <p>8 procedure of choice, yes.</p> <p>9 Q Urethral sling or slings do you use?</p> <p>10 A I use the TVT.</p> <p>11 Q Which one do you use?</p> <p>12 MR. ISMAIL: Restate, please.</p> <p>13 MR. SLATER: Sure.</p> <p>14 Q (By Mr. Slater) Which TVT, since there's a</p> <p>15 bunch of different TVT devices, which TVT do you use in</p> <p>16 your practice?</p> <p>17 A The tension-free vaginal tape, the retropubic</p> <p>18 sling.</p> <p>19 Q You don't use the TVT obturator?</p> <p>20 A Not currently, no.</p> <p>21 Q Did you use the TVT obturator?</p> <p>22 A In training, yes.</p> <p>23 Q Why don't you use the TVT-O since your</p> <p>24 training?</p> | <p style="text-align: right;">Page 73</p> <p>1 part of the pelvis?</p> <p>2 A I wouldn't characterize it as a concern for</p> <p>3 safety, but pain has been something that's seen more</p> <p>4 often in a transobturator sling versus a retropubic</p> <p>5 sling.</p> <p>6 Q And that is one of your considerations in why</p> <p>7 you use the retropubic?</p> <p>8 A Yes.</p> <p>9 Q Let me ask you: Have you used any other</p> <p>10 midurethral slings other than the TVT retropubic and</p> <p>11 TVT obturator?</p> <p>12 A Yes.</p> <p>13 Q What?</p> <p>14 A The Monarc.</p> <p>15 Q Anything else?</p> <p>16 A No.</p> <p>17 Q The Monarc, is that something you only used</p> <p>18 in your fellowship?</p> <p>19 A I believe that I used the Monarc once or</p> <p>20 twice after fellowship as well.</p> <p>21 Q That's an obturator procedure, correct?</p> <p>22 A That's an obturator procedure, yes.</p> <p>23 Q So you used it just those one to two times</p> <p>24 and then decided not to use it because, again, it was</p> |

19 (Pages 70 to 73)

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| <p style="text-align: right;">Page 74</p> <p>1 an obturator procedure?</p> <p>2 A Right.</p> <p>3 Q Let me ask you a question. On page 3 of your</p> <p>4 report, at the top you say, "I comfortably manage mesh</p> <p>5 complications, complex female pelvic pain, and</p> <p>6 recurrent prolapse and recurrent or complex urinary</p> <p>7 incontinence." Do you see that?</p> <p>8 A Yes.</p> <p>9 Q With regard to your comfortable management of</p> <p>10 mesh complications -- I know I asked you this before; I</p> <p>11 just want to be very clear because you wrote this in</p> <p>12 your report -- were you speaking about mesh</p> <p>13 complications from the Prolift? Is that included in</p> <p>14 here?</p> <p>15 A That's included, yes.</p> <p>16 Q Have you personally had patients with the</p> <p>17 Prolift who have had complications that you had to</p> <p>18 treat that you related to the Prolift?</p> <p>19 MR. ISMAIL: Objection to form.</p> <p>20 THE WITNESS: I have had patients who</p> <p>21 have had Prolift procedures who have had</p> <p>22 complications that we've had to treat, yes.</p> <p>23 Q (By Mr. Slater) Can you tell me what</p> <p>24 complications those include?</p> | <p style="text-align: right;">Page 76</p> <p>1 reported with Ms. Hammons, correct?</p> <p>2 A That's correct.</p> <p>3 MR. ISMAIL: Objection to form.</p> <p>4 Q (By Mr. Slater) Have you -- let me ask you</p> <p>5 this: Have you had patients with mesh erosions where</p> <p>6 you surgically revised the mesh and then had to do so</p> <p>7 more than once because the mesh erosions recurred?</p> <p>8 A Are you asking about with Prolift or just in</p> <p>9 general?</p> <p>10 Q Prolift.</p> <p>11 A No.</p> <p>12 Q Are you aware from the literature that that</p> <p>13 does occur with some Prolift patients, that they'll</p> <p>14 have mesh erosion, it will be treated, and then the</p> <p>15 patient will have a recurrence erosion and sometimes</p> <p>16 that can happen more than once, more than twice, even,</p> <p>17 you know, three, four, five times in some patients?</p> <p>18 Are you aware of that occurring?</p> <p>19 A I'm not aware of that occurring with the</p> <p>20 Prolift, no.</p> <p>21 Q In forming your opinions in this case, you</p> <p>22 did not assume that there are some patients who get an</p> <p>23 erosion with Prolift and it's operated on and then they</p> <p>24 have another erosion and another and that that can</p> |
| <p style="text-align: right;">Page 75</p> <p>1 A Mostly mesh erosions.</p> <p>2 Q Anything else?</p> <p>3 A You're talking about treating it surgically,</p> <p>4 surgical treatment, or are you including things like</p> <p>5 physical therapy, estrogen?</p> <p>6 Q Any treatment.</p> <p>7 A Yes, I mean, there --</p> <p>8 Q I want to know what the -- well, let me just</p> <p>9 say -- let me stop. I'm asking you what the</p> <p>10 complications were. I'm not necessarily asking you</p> <p>11 what the treatment was. I want to know what the</p> <p>12 complications you had with your Prolift patients where</p> <p>13 you treated them.</p> <p>14 A So mesh erosion was the most common. We also</p> <p>15 saw patients that had scarring or band -- tense sort of</p> <p>16 areas of the mesh that was tender to touch.</p> <p>17 Q Anything else?</p> <p>18 A That's mostly what I remember.</p> <p>19 Q When you talk about tenseness or tense</p> <p>20 banding that's tender to the touch --</p> <p>21 A Uh-huh.</p> <p>22 Q -- just to fast-forward a little bit --</p> <p>23 A Uh-huh.</p> <p>24 Q -- that's one of the things that Dr. Heit</p> | <p style="text-align: right;">Page 77</p> <p>1 happen multiple times, you were not assuming that in</p> <p>2 forming your opinions, correct?</p> <p>3 MR. ISMAIL: Objection to form.</p> <p>4 THE WITNESS: I'm not assuming, that,</p> <p>5 no.</p> <p>6 MR. SLATER: Okay.</p> <p>7 Q (By Mr. Slater) Do you know whether Ethicon</p> <p>8 knows that that occurs in some patients?</p> <p>9 A I don't know.</p> <p>10 Q If Ethicon knows that, is that information</p> <p>11 that you would like to have in forming your opinions in</p> <p>12 this case?</p> <p>13 MR. ISMAIL: Objection to form.</p> <p>14 THE WITNESS: Not necessarily.</p> <p>15 Q (By Mr. Slater) It wouldn't matter to you in</p> <p>16 forming your opinions?</p> <p>17 A My opinions are based on my clinical</p> <p>18 experience and what I have read in the scientific</p> <p>19 literature. So what they know internally is not what I</p> <p>20 use to base my opinions on.</p> <p>21 Q Okay. Let me -- let me walk through this a</p> <p>22 little bit with you. The opinions that you have formed</p> <p>23 in this case with regard to the safety and the efficacy</p> <p>24 of the Prolift are based on, number one, your clinical</p> |

20 (Pages 74 to 77)

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| <p style="text-align: right;">Page 78</p> <p>1 experience with the Prolift, correct?</p> <p>2 A Correct.</p> <p>3 Q Number two, your reading of the scientific</p> <p>4 literature that you've been able to read that's been</p> <p>5 published with regard to the Prolift, correct?</p> <p>6 A With regard to the Prolift and other meshes,</p> <p>7 yes.</p> <p>8 Q Relying for your opinions not just on</p> <p>9 literature about the Prolift, but also about other mesh</p> <p>10 devices and mesh products, correct?</p> <p>11 A Yes.</p> <p>12 Q Are there any other products or mesh devices</p> <p>13 that you can list for me that you are relying on</p> <p>14 literature about other than the Prolift?</p> <p>15 A I can't list them for you. What I am</p> <p>16 referring to when I say that is the fact that I'm</p> <p>17 relying on meta-analyses and things like the Cochrane</p> <p>18 review, which review all transvaginal meshes and not</p> <p>19 just the Prolift.</p> <p>20 Q Let me ask you a question: Would you agree</p> <p>21 with me that the risk-benefit profile for the Prolift</p> <p>22 is not identical to that for other mesh products and</p> <p>23 mesh devices?</p> <p>24 A That's correct.</p> | <p style="text-align: right;">Page 80</p> <p>1 about this topic, so that's just part of my fund of</p> <p>2 knowledge"?</p> <p>3 A It would be the second, more general.</p> <p>4 MR. SLATER: If we could, Bob [sic], can</p> <p>5 we hand Dr. Lowman Exhibit 10 and Exhibit</p> <p>6 11.</p> <p>7 (Discussion off the written record.)</p> <p>8 Q (By Mr. Slater) Okay, Doctor, looking at</p> <p>9 Exhibit 10, there is a set of emails from February of</p> <p>10 2010. And if you look at it, in the middle of the --</p> <p>11 well, actually, if you go to the second page, there's</p> <p>12 an email that goes from the first page to the second</p> <p>13 page written by Scott Jones, product director at</p> <p>14 Ethicon. Do you see that?</p> <p>15 A Yes.</p> <p>16 Q Okay. Do you know Scott Jones?</p> <p>17 A I don't.</p> <p>18 Q Do you know -- other than what you're reading</p> <p>19 here, obviously his title is there, did you have any</p> <p>20 idea who he was before I showed you this email?</p> <p>21 A No.</p> <p>22 Q Okay. This email is written by Scott Jones,</p> <p>23 and you'll see he's talking about needing help to</p> <p>24 "quantify the number of customers that we have lost to</p> |
| <p style="text-align: right;">Page 79</p> <p>1 Q All right, let me ask you this: Other than</p> <p>2 your clinical experience and the scientific literature</p> <p>3 with regard to the Prolift and those meta-analyses and</p> <p>4 the Cochrane review, is there any other foundation of</p> <p>5 information that you're relying on for your opinions</p> <p>6 about the safety and efficacy of the Prolift?</p> <p>7 MR. ISMAIL: Objection to form.</p> <p>8 THE WITNESS: We often discuss safety</p> <p>9 and efficacy, what we're seeing in clinical</p> <p>10 practice, at our conferences and meetings.</p> <p>11 And I rely on that information as well, in</p> <p>12 addition to my conversations with</p> <p>13 colleagues.</p> <p>14 Q (By Mr. Slater) Anything else?</p> <p>15 A I think that sums it up.</p> <p>16 Q Okay. Let me ask you this about your</p> <p>17 discussions at conferences and conversations with</p> <p>18 colleagues.</p> <p>19 A Uh-huh.</p> <p>20 Q Are there any in particular that you can tell</p> <p>21 me about right now and say, "This is a discussion that</p> <p>22 I had and this is information that I'm specifically</p> <p>23 relying on," or is it more general than that where you</p> <p>24 just say, "I know I've spoken to people in general</p> | <p style="text-align: right;">Page 81</p> <p>1 a competitive procedure focused on apical support. Our</p> <p>2 customers continue to tell us that they want to see</p> <p>3 Prolift+M introduced with an anterior apical product</p> <p>4 code." And then he talks about in order to present</p> <p>5 this business case, he needs a bunch of information,</p> <p>6 and he talks about needing information about the</p> <p>7 doctors that they have lost from the Prolift to other</p> <p>8 procedures. Do you see that?</p> <p>9 A Let me just read it really quickly.</p> <p>10 Q Sure. You can scan through it. I'm just --</p> <p>11 that's generally what it's about, but you can take a</p> <p>12 look.</p> <p>13 A Okay.</p> <p>14 Q Okay, so let me ask you just one basic</p> <p>15 question first.</p> <p>16 A Uh-huh.</p> <p>17 Q When you were performing the Prolift, did you</p> <p>18 have an understanding that in addition to treating a</p> <p>19 cystocele, that it should also provide some benefit to</p> <p>20 an apical prolapse or apical weakness as well?</p> <p>21 A What type of Prolift are you referring to?</p> <p>22 Q Let's talk about an anterior Prolift to begin</p> <p>23 with.</p> <p>24 A No, the anterior Prolift doesn't provide</p> |

21 (Pages 78 to 81)

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| <p style="text-align: right;">Page 82</p> <p>1 apical support.</p> <p>2 Q Which Prolift provides apical support?</p> <p>3 A The posterior Prolift.</p> <p>4 Q Would the total also provide apical support?</p> <p>5 A Yes.</p> <p>6 Q If you turn to the front page of this email,</p> <p>7 in the middle of the page, there's an email from Robert</p> <p>8 Zipfel to several people. And again I'm just asking,</p> <p>9 do you know Robert Zipfel or have any involvement --</p> <p>10 you ever have any involvement with him or know who he</p> <p>11 is?</p> <p>12 A I believe that I have. I recognize the name,</p> <p>13 but I don't remember him specifically.</p> <p>14 Q Do you have any recollection of what</p> <p>15 connection you ever had with him?</p> <p>16 A I don't remember.</p> <p>17 Q Robert Zipfel writes, "Last week at the</p> <p>18 summit, it was clear that our physicians want anterior</p> <p>19 apical support modification to Prolift." Do you see</p> <p>20 that?</p> <p>21 A Yes.</p> <p>22 Q Okay. And then they had asked for a list.</p> <p>23 And at the top, there's an email and it says, "Attached</p> <p>24 is the list." And Exhibit 11 is a portion of the</p> | <p style="text-align: right;">Page 84</p> <p>1 incorrect.</p> <p>2 MR. SLATER: Okay.</p> <p>3 Q (By Mr. Slater) Let me ask you this: The</p> <p>4 Prolift stopped being marketed as of September 1, 2012.</p> <p>5 A Uh-huh.</p> <p>6 Q Are you aware of that, that that was when</p> <p>7 they stopped marketing it?</p> <p>8 A I remembered that it was 2012 or I had a</p> <p>9 gestalt --</p> <p>10 Q Are you saying that you were -- okay, I'm</p> <p>11 sorry. So you -- after your fellowship, beginning in</p> <p>12 2008 through September of 2012, which is four years,</p> <p>13 approximately, you did 70 Prolifts, according to the</p> <p>14 figures we went through earlier, correct?</p> <p>15 A Yes, approximately.</p> <p>16 Q Approximately how many prolapse repair</p> <p>17 procedures did you perform during those four years</p> <p>18 total? Can you estimate that number?</p> <p>19 A How many prolapse procedures did I do during</p> <p>20 the four years total? I don't know.</p> <p>21 Q Did there come a time when you were doing --</p> <p>22 well, rephrase.</p> <p>23 In your practice after fellowship, was there</p> <p>24 a point where you were doing more Prolifts and then it</p> |
| <p style="text-align: right;">Page 83</p> <p>1 list, and if you look at the -- about halfway down,</p> <p>2 you're listed and that your product conversion was to</p> <p>3 sacrocolpopexy. Do you see that?</p> <p>4 A I see --</p> <p>5 MR. ISMAIL: Objection to form.</p> <p>6 THE WITNESS: I see that.</p> <p>7 Q (By Mr. Slater) Okay. Is it accurate that</p> <p>8 you stopped using the Prolift because of concern over</p> <p>9 the lack of apical support with the Prolift?</p> <p>10 A No.</p> <p>11 MR. ISMAIL: Objection to form.</p> <p>12 MR. GOODALL: Adam, you're going to have</p> <p>13 to repeat that.</p> <p>14 Q (By Mr. Slater) Next question: Doctor, why</p> <p>15 did you stop using the Prolift?</p> <p>16 A I stopped using the prolapse -- Prolift when</p> <p>17 it was no longer marketed, from what I remember.</p> <p>18 Q Okay. Let me ask you this: This document</p> <p>19 says that as of February of 2010, the -- they had data</p> <p>20 that you had switched from the Prolift to</p> <p>21 sacrocolpopexy. Are you saying that information is</p> <p>22 untrue?</p> <p>23 MR. ISMAIL: Objection to form.</p> <p>24 THE WITNESS: I'm saying that that's</p> | <p style="text-align: right;">Page 85</p> <p>1 tapered off?</p> <p>2 MR. ISMAIL: Objection to form.</p> <p>3 THE WITNESS: I don't remember. I</p> <p>4 believe so.</p> <p>5 Q (By Mr. Slater) And why was that?</p> <p>6 A Because of the FDA Public Health</p> <p>7 Notification.</p> <p>8 Q Which one?</p> <p>9 A 2011.</p> <p>10 Q Why did that impact your volume of Prolift</p> <p>11 procedures?</p> <p>12 A Patients became acutely aware that there were</p> <p>13 reports of complications because of all the</p> <p>14 advertisements on TV.</p> <p>15 Q When you say "advertisements on TV," are you</p> <p>16 talking about advertisements by law firms?</p> <p>17 A I'm assuming that's who they're by, yes.</p> <p>18 Q You said that your use tapered off after the</p> <p>19 Public Health Notification in 2011. Was there</p> <p>20 something about that Public Health Notification that</p> <p>21 caused you to taper off your use of the Prolift?</p> <p>22 A No.</p> <p>23 Q Did you ever consider using the Prolift+M?</p> <p>24 Was that ever presented to you?</p> |

22 (Pages 82 to 85)

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| <p style="text-align: right;">Page 86</p> <p>1 A I -- I did consider it, yes.</p> <p>2 Q You said you never used it. Why?</p> <p>3 A It takes a lot to get me to change from what</p> <p>4 I'm doing. If I'm satisfied with what I'm currently</p> <p>5 doing, then I don't usually switch unless there's some</p> <p>6 compelling reason.</p> <p>7 Q Did Ethicon provide you information about the</p> <p>8 Prolift+M?</p> <p>9 A Not that I remember.</p> <p>10 Q For example, did a sales representative</p> <p>11 provide you information or invite you to any sort of a</p> <p>12 meeting or did you see any presentations at a</p> <p>13 conference about it that Ethicon sponsored, anything</p> <p>14 like that?</p> <p>15 A I may have seen something at a conference. I</p> <p>16 don't remember specifically.</p> <p>17 Q You're -- are you saying a sales -- did a</p> <p>18 sales representative provide you information about the</p> <p>19 Prolift+M?</p> <p>20 A Not that I remember, no.</p> <p>21 Q Anybody from Ethicon ever tell you that they</p> <p>22 internally believed that the Prolift+M could have</p> <p>23 safety advantages for patients because of the fact that</p> <p>24 it was a larger pore, lighter weight mesh than the</p> | <p style="text-align: right;">Page 88</p> <p>1 Q In determining what type of mesh you use in</p> <p>2 your clinical practice, is the pore size of the mesh</p> <p>3 something you consider?</p> <p>4 A Yes.</p> <p>5 Q Why is that, why do you consider the pore</p> <p>6 size?</p> <p>7 A Because the pore size is important to how the</p> <p>8 mesh performs.</p> <p>9 Q Tell me about that. Why is that -- why is</p> <p>10 the pore size important to how the mesh performs?</p> <p>11 A It helps to determine how well the mesh is</p> <p>12 incorporated into the body. It also helps to determine</p> <p>13 the risk of infection with the mesh, and it helps to</p> <p>14 determine the mesh -- its pliability.</p> <p>15 Q Do you know the pore size of the mesh in the</p> <p>16 Prolift?</p> <p>17 A I do.</p> <p>18 Q What is it?</p> <p>19 A 2.4 millimeters.</p> <p>20 Q Is that uniform across the entire Prolift,</p> <p>21 all the pores are 2.4?</p> <p>22 A I don't know.</p> <p>23 Q Do you know what happens to the Prolift mesh</p> <p>24 when it's placed under strain and when tension is</p> |
| <p style="text-align: right;">Page 87</p> <p>1 Prolift?</p> <p>2 MR. ISMAIL: Objection to form.</p> <p>3 THE WITNESS: Can you repeat the</p> <p>4 question?</p> <p>5 MR. SLATER: Sure.</p> <p>6 Q (By Mr. Slater) Did anybody from Ethicon</p> <p>7 ever communicate to you that Ethicon thought that there</p> <p>8 were potential safety benefits to the Prolift+M because</p> <p>9 it had a larger pore, lighter weight mesh than the</p> <p>10 Prolift?</p> <p>11 MR. ISMAIL: Objection to form.</p> <p>12 THE WITNESS: No.</p> <p>13 Q (By Mr. Slater) Do you know anything about</p> <p>14 the mesh used in the Prolift+M, for example, what type</p> <p>15 of mesh it is?</p> <p>16 A I know that it's a partially absorbable mesh.</p> <p>17 Q And how do you know that?</p> <p>18 A Through the literature and through</p> <p>19 conferences.</p> <p>20 Q Do you know anything else about the mesh</p> <p>21 other than that it's a partially absorbable mesh?</p> <p>22 A That it's ultra lightweight as well.</p> <p>23 Q Do you know anything about the pore sizes?</p> <p>24 A No.</p> | <p style="text-align: right;">Page 89</p> <p>1 placed on it?</p> <p>2 MR. ISMAIL: Objection to form.</p> <p>3 Q (By Mr. Slater) Do you know what happens to</p> <p>4 the pores then?</p> <p>5 A I don't.</p> <p>6 Q Do you know what Ethicon's internal knowledge</p> <p>7 is about what happens to the pore sizes of the Prolift</p> <p>8 when it's placed under tension in actual use in the</p> <p>9 body?</p> <p>10 A No.</p> <p>11 Q You -- we had talked about the literature by</p> <p>12 Dr. Klinge a little earlier. Have you read his</p> <p>13 literature where he has discussed the importance of the</p> <p>14 mesh maintaining at least a thousand microns of pore</p> <p>15 size under strain?</p> <p>16 A No.</p> <p>17 Q Have you read the literature discussing the</p> <p>18 importance of having at least a thousand microns of</p> <p>19 pore size in all directions when the -- when the mesh</p> <p>20 is incorporated into the body?</p> <p>21 A I'm familiar with the literature that</p> <p>22 states that the pore size needs to be greater than</p> <p>23 1 millimeter. I don't remember it saying anything</p> <p>24 about being under strain.</p> |

23 (Pages 86 to 89)

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| <p style="text-align: right;">Page 90</p> <p>1 Q You do know -- well, rephrase. 2 And certainly one of the things that you rely 3 on for your opinions is that literature that discusses 4 and establishes the need for the pore sizes to be at 5 least 1 millimeter, correct? 6 A That's correct. 7 Q But you're not familiar with literature 8 or documents that talk about the need for it to be 9 1 millimeter even when it's under tension or strain 10 when it's actually implanted in the body? 11 MR. ISMAIL: Objection to form. 12 THE WITNESS: Not in the literature, 13 no. 14 Q (By Mr. Slater) Do you know anything about 15 the relationship between the need for a 1-millimeter 16 pore size and the propensity of the mesh to develop 17 scar plating or bridging fibrosis? 18 A Yes. 19 Q And is it your understanding that it's 20 important that the pore sizes be at least 1 millimeter 21 in order to reduce the risk of scar plating? 22 MR. ISMAIL: Objection to form. 23 THE WITNESS: Yes. 24 Q (By Mr. Slater) Do you know why the Prolift</p> | <p style="text-align: right;">Page 92</p> <p>1 THE WITNESS: I don't remember. 2 Q (By Mr. Slater) What did the sales rep from 3 Ethicon tell you about why Ethicon had stopped selling 4 the Prolift? 5 A He just sort of shook his head and -- he 6 didn't give me any specifics. I don't know. I don't 7 remember anything in -- anything specifically. 8 Q So let me understand. You sought out the 9 sales rep from Ethicon at your hospital, Northside? 10 A Uh-huh. 11 Q You asked him, "Why is Ethicon stopping 12 selling the Prolift?" 13 A Uh-huh. 14 Q He shook his head and gave you no information 15 at all and that was the end of it? 16 A Yes. 17 Q Did you make another effort after that to get 18 that information from somebody else who could actually 19 answer your question? 20 A No, because if it's no longer being marketed, 21 it's -- I mean, it's no longer being marketed. I was 22 just curious. And if he couldn't answer it, who else 23 would I ask? 24 Q You got hired to be an expert for Ethicon in</p> |
| <p style="text-align: right;">Page 91</p> <p>1 was removed from the market? 2 MR. ISMAIL: Objection to form. 3 THE WITNESS: I don't. 4 Q (By Mr. Slater) And just -- there was an 5 objection to the form, so I'm just going to ask it 6 differently. Do you know why the Prolift -- rephrase. 7 Do you know why Ethicon stopped marketing the 8 Prolift? 9 A No. 10 Q Did you ever try to find that information 11 out? 12 A I did. 13 Q How did you try to find that out? What did 14 you do? 15 A I found the rep for Ethicon at Northside and 16 asked why they were no longer marketing the Prolift. 17 Q Who was that? 18 A I don't remember his name. 19 Q Okay. And when did this conversation take 20 place? 21 A I don't remember. 22 Q Was it before the Prolift went off the 23 market, or was it after it went off the market? 24 MR. ISMAIL: Objection to form.</p> | <p style="text-align: right;">Page 93</p> <p>1 a Prolift case. As part of your work as an expert, did 2 you seek to find out why Ethicon stopped selling the 3 Prolift? 4 A No. 5 Q It didn't matter to you? 6 A No. 7 Q Once you got retained as an expert, did you 8 ask anybody, "Why did Ethicon stop selling the 9 Prolift"? 10 A No. 11 Q As we sit here right now, are you curious why 12 Ethicon stopped selling the Prolift? 13 A I don't think that has any relevance to my 14 professional opinion about the facts of this case. 15 They decided to stop marketing it. Beyond that, you 16 know, I don't have any further opinion about it. 17 Q Where were you trained on the Prolift, to do 18 the Prolift procedure? 19 A At Indiana University. 20 Q During your fellowship? 21 A Yes. 22 Q When you were a resident, did you observe 23 Prolift procedures? 24 A I don't remember. I don't believe so. I</p> |

24 (Pages 90 to 93)

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1 believe that my first visual evaluation of the product
 2 was in fellowship. I do remember a lecture.
 3 Q When you were in your residency -- I'm sorry.
 4 When you were in your residency, did you know of the
 5 existence of the Prolift?
 6 A Yes.
 7 Q How did you know about the Prolift in your
 8 residency?
 9 A Dr. Lucente talked -- spoke about it in one
 10 of his lectures.
 11 Q What did he say?
 12 A I don't remember.
 13 Q Did Dr. Lucente talk about his personal data
 14 or the outcomes of his patients when he spoke about the
 15 Prolift?
 16 A No. This was -- that would have been beyond
 17 the scope of a resident lecture.
 18 Q You went to your fellowship and then how were
 19 you exposed to the Prolift in your fellowship?
 20 A What do you mean by that?
 21 Q I'm trying to ask as broadly as I can. What
 22 was the first involvement, how did you become involved
 23 with the Prolift during your fellowship?
 24 A Well, during fellowship, we performed

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1 procedures usually at the direction of our program
 2 directors. So I'm assuming that one of the program
 3 directors felt that that procedure was indicated in a
 4 patient that we were going to operate on together and
 5 that's what we decided to do.
 6 Q Were you trained on how to perform the
 7 Prolift procedure in your fellowship before you took
 8 part in those procedures?
 9 A Yes.
 10 Q Who trained you?
 11 A I don't remember. It would have been one of
 12 my program directors, either Dr. Hale or Dr. Woodman.
 13 Q Did you ever attend a professional education
 14 presentation sponsored by Ethicon regarding the Prolift
 15 procedure?
 16 A I may have. I don't remember specifically.
 17 Q Well, I need to -- I need to know -- you have
 18 to understand, this is the time I get to ask you
 19 questions and learn things.
 20 A Yes.
 21 Q So I need you to think real hard for me. Did
 22 you, yes or no, attend a professional education event
 23 regarding the Prolift sponsored and run by Ethicon?
 24 MR. ISMAIL: Objection to form.

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1 THE WITNESS: I don't remember.
 2 MR. SLATER: Okay.
 3 Q (By Mr. Slater) Is it fair to say that you
 4 would not be able to tell me anything that you might
 5 have seen or learned during professional education on
 6 the Prolift because you can't remember whether or not
 7 you attended such an event; is that fair?
 8 A No, that's not fair. I can't remember when I
 9 attended professional education about the Prolift. I'm
 10 sure that I have attended some professional education
 11 about the Prolift. And I'm familiar with the
 12 information that is usually described in those
 13 situations. But I can't say when I did that or whether
 14 or not that was a part of my fellowship.
 15 Q Well, I'm not asking if it was part of your
 16 fellowship, I'm actually distinguishing, but let me ask
 17 you the question more clearly. As you sit here now --
 18 A Uh-huh.
 19 Q -- do you recall attending a professional
 20 education event regarding the Prolift?
 21 A I don't remember a specific professional
 22 event. What I can say is I've attended a lot of
 23 professional events, and I'm sure that the Prolift,
 24 if -- that the Prolift may have been one of them.

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1 Q You don't know if you attended a Prolift
 2 professional education event, you think you may have
 3 but you don't know; is that true?
 4 A That's correct.
 5 Q Okay. As you sit here now, am I correct that
 6 you don't recall actually attending a professional
 7 education event with regard to the Prolift and at that
 8 event actually seeing a particular lecture, a
 9 particular PowerPoint, being given particular
 10 materials, you don't remember that because you don't
 11 remember whether you attended such as event; is that
 12 true?
 13 A That's true.
 14 Q You've attended professional education events
 15 for various procedures, correct?
 16 A Correct.
 17 Q Okay. Did you attend a professional
 18 education event with regard to the TVT or the TVT-O?
 19 A I don't remember.
 20 Q Is there any particular mesh device that you
 21 do remember actually attending a professional education
 22 event for?
 23 A When you say "professional education event,"
 24 what do you mean?

25 (Pages 94 to 97)

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| <p style="text-align: right;">Page 98</p> <p>1 Q Where a mesh manufacturer has one of their 2 preceptors, one of their consulting doctors actually 3 teach doctors through a lecture and then potentially 4 even by demonstrating the surgery after the lecture, 5 "This is this mesh device, this is how it works, this 6 is the data, these are things you need to know," and 7 demonstrating it to teach doctors how to do the 8 procedure. 9 A Okay. Then I would not have attended 10 something like that in fellowship. 11 Q Okay. How about after your fellowship? 12 A No. I already knew how to do the procedure. 13 Q So the training you got on the Prolift was in 14 the context of your fellowship from the fellowship 15 directors who just taught you in the operating room, 16 basically, "This is what the Prolift is and this is how 17 you do it," is that correct? 18 A That's correct. 19 Q Did your fellowship directors show you videos 20 about the Prolift as part of your training? 21 A Not that I remember. 22 Q Did your fellowship directors show you 23 PowerPoints or literature from Ethicon about the 24 Prolift?</p> | <p style="text-align: right;">Page 100</p> <p>1 MS. DEMING: Let him finish his 2 question. 3 THE WITNESS: Oh, sorry. 4 Q (By Mr. Slater) Do you -- that's fine. 5 Do you recall that happening with the Prolift 6 where your fellowship director said, "Hey, you know, 7 you should look at this article about the Prolift, it 8 has important information, you should read this"? Is 9 there any particular article you can point to? 10 A Not that I remember. 11 Q Okay. In your report, you focused on certain 12 medical literature. Is that literature that you 13 focused on the literature you just -- you personally 14 think is most important with regard to the Prolift in 15 forming your opinions? 16 A Could you ask that question again? 17 Q Sure. In your report, you actually discuss 18 certain medical literature, certain studies and certain 19 articles. 20 A Yes. 21 Q You pick certain ones and actually talk about 22 them in your report, correct? 23 A Correct. 24 Q All right. First of all, were those the</p> |
| <p style="text-align: right;">Page 99</p> <p>1 A Not that I remember. 2 Q Did your fellowship directors, when they were 3 training you on the Prolift, give you specific medical 4 literature and say, "You should look at this literature 5 to help learn about the Prolift"? 6 A They didn't often give us literature. I 7 mean, that was something that we did often, reviewing 8 the literature, but it wasn't often given to us by our 9 program directors. 10 Q Did the fellowship directors suggest that you 11 read any particular literature to help you to learn how 12 to perform the Prolift or to -- or how to determine who 13 to use it with? 14 A It was customary for us to be reviewing 15 literature. I don't remember either of them giving us 16 anything specific. 17 Q When you say -- and when you say "giving," 18 not just handing it to you, but suggesting, "Hey, you 19 should read this article, this is a good article about 20 the Prolift, you'll learn some valuable information," 21 that -- you don't recall -- 22 A Oh, we had those types -- 23 Q -- that happening either? 24 A -- of discussions all the time, sure.</p> | <p style="text-align: right;">Page 101</p> <p>1 studies and the articles you felt were most important 2 and most significant to you in forming your opinions 3 about the Prolift? 4 A They were articles that I thought helped to 5 elucidate the ideas that I was trying to describe in 6 the report, yes. 7 Q Okay. And the reason I'm asking is because 8 obviously there's a lot of literature out there and 9 there's a lot of literature on your list that's 10 attached to your report. 11 A Right. 12 Q But you obviously made decisions on what to 13 actually discuss in your report, correct? 14 A Correct. 15 Q And I'm trying just to understand your 16 thought process. The articles that you actually and 17 the studies that you actually discuss in the report are 18 those that you -- are those the ones you felt were most 19 important to you in forming your opinions? 20 MR. ISMAIL: Objection to form. 21 THE WITNESS: It doesn't mean that some 22 of the other articles may not have been 23 important. It just means that those are the 24 ones that illustrate the points that I was</p> |

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| <p style="text-align: right;">Page 102</p> <p>1 trying to make in the report.</p> <p>2 Q (By Mr. Slater) The list of medical</p> <p>3 literature on your report, did you compile that</p> <p>4 yourself?</p> <p>5 A Not completely, no.</p> <p>6 Q Have you read all the articles that are</p> <p>7 listed in the appendix to your report?</p> <p>8 A At some point, yes.</p> <p>9 Q And this is -- this is what I'm trying to get</p> <p>10 at with my question before, since there's obviously a</p> <p>11 lots of articles listed there and I was not -- I was</p> <p>12 hoping not to walk through every single one of them</p> <p>13 with you.</p> <p>14 A Yeah.</p> <p>15 Q So what I was trying to get at is, I know</p> <p>16 you've listed a lot of articles, but I just want to</p> <p>17 understand, those that you describe and discuss in the</p> <p>18 report itself, are those the ones that you felt were</p> <p>19 the most important ones to you in illustrating and</p> <p>20 forming your opinions?</p> <p>21 MR. ISMAIL: Objection. Asked and</p> <p>22 answered.</p> <p>23 THE WITNESS: What I'm trying to explain</p> <p>24 is that there may be other articles that are</p> | <p style="text-align: right;">Page 104</p> <p>1 make you do that. I'm actually trying to short-cut a</p> <p>2 little with how I'm asking the question, but my feeling</p> <p>3 would be that you would know which articles are most</p> <p>4 important to you or which studies are most important to</p> <p>5 you in forming your opinions. So that's what I'm</p> <p>6 trying to understand, so that when I see you testify at</p> <p>7 trial, I can anticipate what you'll probably focus on</p> <p>8 when you testify.</p> <p>9 A The only hesitation I have with doing that is</p> <p>10 that there's a lot that I've read in my career. And</p> <p>11 there might be something that comes to mind as we</p> <p>12 progress through this that I realize, oh, this -- in</p> <p>13 this article, they said something very important. So I</p> <p>14 don't want to exclude things that might have something</p> <p>15 of importance in them. I can try to go through this</p> <p>16 list if you'd like.</p> <p>17 Q What I want to understand is this: As you</p> <p>18 sit here now, other than what you've discussed</p> <p>19 specifically in the report, are there any other</p> <p>20 articles that jump out at you and you say, "This one is</p> <p>21 clearly important to me also; I didn't discuss it, but</p> <p>22 it's significant"?</p> <p>23 A I'd have to go through this and try to</p> <p>24 remember and figure it out. I don't think I can answer</p> |
| <p style="text-align: right;">Page 103</p> <p>1 important that I didn't cite specifically.</p> <p>2 The articles that I cited specifically</p> <p>3 usually are relevant to either the numbers</p> <p>4 that I used specifically or to the specific</p> <p>5 sentence that was -- that I typed up before I</p> <p>6 cited those articles.</p> <p>7 Q (By Mr. Slater) This list of medical</p> <p>8 literature in the appendix to your report, the reliance</p> <p>9 list of medical literature, am I correct that you don't</p> <p>10 weigh all these articles equally, you don't say they</p> <p>11 all have the same importance to your opinion?</p> <p>12 A That's -- yeah, that's correct.</p> <p>13 Q So if my starting point -- if I want to</p> <p>14 figure out which articles were most important to you,</p> <p>15 certainly those you discussed in your report would be</p> <p>16 at the top of the list, correct?</p> <p>17 A Correct.</p> <p>18 Q Are there any other particular articles, and</p> <p>19 you can look at the list, where you'd say, "These</p> <p>20 additional studies are important to me also, and I put</p> <p>21 them also at the top of the list in forming my</p> <p>22 opinions"?</p> <p>23 A You want me to go through them all?</p> <p>24 Q Well, I'm not -- I'm actually not trying to</p> | <p style="text-align: right;">Page 105</p> <p>1 that question effectively.</p> <p>2 MR. ISMAIL: And, Adam, just so you</p> <p>3 know --</p> <p>4 Q (By Mr. Slater) Any that jump out at you?</p> <p>5 MR. ISMAIL: Sorry, just to interpose,</p> <p>6 there's a -- there's a supplemental list that</p> <p>7 we've tendered as well, but I know you're --</p> <p>8 MR. SLATER: I don't know what you're</p> <p>9 talking about with a supplemental list. I</p> <p>10 have this report.</p> <p>11 MR. ISMAIL: I understand what you have</p> <p>12 and that's why I interposed it, so you were</p> <p>13 aware.</p> <p>14 MR. SLATER: Was it sent to me?</p> <p>15 MR. ISMAIL: I have no idea if it was</p> <p>16 sent to you. I'm telling you it's here.</p> <p>17 MS. DEMING: It was sent yesterday.</p> <p>18 MR. ISMAIL: It was -- we believe it was</p> <p>19 sent yesterday. It's here.</p> <p>20 MR. SLATER: Well, you understand I'm</p> <p>21 the lawyer that was going to take the</p> <p>22 deposition. Did anybody actually email it to</p> <p>23 me and say, "Hey, here's a supplemental list</p> <p>24 of literature"?</p> |

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| <p style="text-align: right;">Page 106</p> <p>1 MR. ISMAIL: I just told I don't know.</p> <p>2 MR. SLATER: Do you think somebody could</p> <p>3 do that for me now so during a break I could</p> <p>4 take a look at it?</p> <p>5 MR. ISMAIL: I'm sure that can be done.</p> <p>6 MS. DEMING: I'll be glad to.</p> <p>7 (Discussion off the written record.)</p> <p>8 Q (By Mr. Slater) Doctor, as you sit here</p> <p>9 now --</p> <p>10 A Yes.</p> <p>11 Q -- looking at the reliance list of medical</p> <p>12 literature that was attached to your report --</p> <p>13 A Yes.</p> <p>14 Q -- are there any of those articles that jump</p> <p>15 out at you and you say, "I know that this is important</p> <p>16 to me also in addition to what I discussed in my</p> <p>17 report," as you sit here now?</p> <p>18 A I'd have to go through them and look. If you</p> <p>19 want me to do that, I can.</p> <p>20 Q Sure, take a look.</p> <p>21 THE WITNESS: Does anyone...</p> <p>22 MR. SLATER: It's attached to your</p> <p>23 report.</p> <p>24 THE WITNESS: Yep, I see it.</p> | <p style="text-align: right;">Page 108</p> <p>1 there any others on this list that you can tell me,</p> <p>2 "Yes, those are important to me also in forming my</p> <p>3 opinions; I put them right up there with the ones that</p> <p>4 are discussed in the report"?</p> <p>5 A Okay.</p> <p>6 MR. ISMAIL: Objection to form.</p> <p>7 Q (By Mr. Slater) There might be some; there</p> <p>8 may not be any.</p> <p>9 A Okay.</p> <p>10 MR. ISMAIL: Objection to form.</p> <p>11 THE WITNESS: The first article I would</p> <p>12 say is important.</p> <p>13 Q (By Mr. Slater) That's the Abed systematic</p> <p>14 review?</p> <p>15 A Yes. The -- they're not numbered, so this is</p> <p>16 going to be --</p> <p>17 THE WITNESS: Could I have a pen,</p> <p>18 please.</p> <p>19 Q (By Mr. Slater) Alphabetical order, so you</p> <p>20 can just tell me the last name of the author.</p> <p>21 A Okay. The first Altman study.</p> <p>22 Q That's in your report, you discuss that in</p> <p>23 the report, right?</p> <p>24 A Yes, I did.</p> |
| <p style="text-align: right;">Page 107</p> <p>1 MS. DEMING: And then there were the</p> <p>2 additional articles that we included in</p> <p>3 the --</p> <p>4 MR. SLATER: I don't want the additional</p> <p>5 articles. Ma'am, I don't know why you're</p> <p>6 talking about the additional articles. That</p> <p>7 will be a separate part of this deposition.</p> <p>8 I'll take my deposition, okay? I asked</p> <p>9 Dr. Lowman to look at that reliance list that</p> <p>10 was attached to the report that was served,</p> <p>11 and that's what we're talking about right</p> <p>12 now.</p> <p>13 THE WITNESS: So you'd like me to go</p> <p>14 through and speak to which articles I think</p> <p>15 would be of importance?</p> <p>16 Q (By Mr. Slater) Ma'am -- Doctor, I think</p> <p>17 I've asked this question six times. In your report,</p> <p>18 you discussed certain articles --</p> <p>19 A Yes.</p> <p>20 Q -- which you have acknowledged to me would</p> <p>21 certainly be very important to you at the top of the</p> <p>22 list. All I want to know is, you've got pages and</p> <p>23 pages of lists of articles, some of which you didn't</p> <p>24 even put on this list. So I just want to know, are</p> | <p style="text-align: right;">Page 109</p> <p>1 Q I don't need you to list those that are</p> <p>2 discussed in the report. I just want to know, in</p> <p>3 addition to those you actually discussed in the report,</p> <p>4 which ones are also very important to you.</p> <p>5 A Okay. The second Altman study. The last</p> <p>6 Altman study. The Amid study. The Araco study. The</p> <p>7 Aungst study. The optimal study.</p> <p>8 Q Which one?</p> <p>9 A The optimal trial.</p> <p>10 Q Who's the first listed author?</p> <p>11 A Dr. Barber.</p> <p>12 Q Got it.</p> <p>13 A The third Barber article.</p> <p>14 Q Success?</p> <p>15 A Yes, "Defining Success." The Bartley</p> <p>16 article. The Bartuzi article. The Benbouzid article.</p> <p>17 Dr. Benson's article. Dr. Bhatia's abstract. The</p> <p>18 Caquant article. The Carey article. I think I cited</p> <p>19 that. The Climent article. The Cosson article.</p> <p>20 Q Which one?</p> <p>21 A The first one that's listed.</p> <p>22 Q The 687 patients?</p> <p>23 A Yes.</p> <p>24 Q The abstract?</p> |

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| <p style="text-align: right;">Page 110</p> <p>1 A Yes.</p> <p>2 Q Got it.</p> <p>3 A I believe I cited the Da Silveira article.</p> <p>4 The -- I can't pronounce his last name, the</p> <p>5 second-to-the-last one listed on this page.</p> <p>6 Q D-A-M-O-I-S-E-A-U-X?</p> <p>7 A That's correct.</p> <p>8 Q Okay.</p> <p>9 A De Landsheere. I cited that article. The</p> <p>10 Demirci article, both of those and both of the</p> <p>11 De Landsheeres. The Dietz article I believe I cited.</p> <p>12 The El Haddad article. The last Fatton article. The</p> <p>13 Feiner articles. The Francis article. The Glatt</p> <p>14 article. The Gupta article. The Gutman article. I</p> <p>15 cited Halaska. The article by Handa. The Heinonen</p> <p>16 articles. The Iglesia article. The Ignjatovic</p> <p>17 article.</p> <p>18 Q Which one?</p> <p>19 A The second one. Jacquetin.</p> <p>20 Q Which?</p> <p>21 A All of them. The Kahn article I believe I</p> <p>22 cited. The Karram article. The Komesu article. The</p> <p>23 Kozal articles.</p> <p>24 Q Doctor, you can keep looking and indicating</p> | <p style="text-align: right;">Page 112</p> <p>1 important.</p> <p>2 MR. SLATER: Oh, you did.</p> <p>3 THE WITNESS: I thought that I did.</p> <p>4 THE WITNESS: Murphy. The 2008 article.</p> <p>5 The Nguyen article. The Nygaard article I</p> <p>6 believe I cited. Both of those would be</p> <p>7 important.</p> <p>8 MR. SLATER: Both of the Nygaard</p> <p>9 articles?</p> <p>10 THE WITNESS: Uh-huh.</p> <p>11 MR. SLATER: Okay.</p> <p>12 THE WITNESS: Okui, Olsen, Pandit,</p> <p>13 Patel, both of those --</p> <p>14 MR. SLATER: Which one?</p> <p>15 THE WITNESS: Both of them. Perez and</p> <p>16 Perschler. I'm sorry, not Perschler, I</p> <p>17 thought that was one article. Popov,</p> <p>18 Salimova, Sand, Sanses, Sato. Silva I</p> <p>19 believe I cited. Skala. Sokol I believe I</p> <p>20 cited. Su. Both of those. Subak. Sung.</p> <p>21 Q (By Mr. Slater) You said Sun or Sung?</p> <p>22 A Sung, S-U-N-G.</p> <p>23 Q Okay. Got it.</p> <p>24 A Svabik. Toggia I believe I cited.</p> |
| <p style="text-align: right;">Page 111</p> <p>1 them on your -- you know, for yourself. They're going</p> <p>2 to change the tape, but hopefully they can do that</p> <p>3 quickly and we can continue.</p> <p>4 A Okay.</p> <p>5 THE VIDEOGRAPHER: We are now going off</p> <p>6 the video record. The time is currently</p> <p>7 12:59 p.m. This is the end of Tape No. 2.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: We are now back on</p> <p>10 the video record with Tape No. 3. The time</p> <p>11 is currently 1:04 p.m.</p> <p>12 THE WITNESS: So I'm looking at the page</p> <p>13 with Krasnopolsky or polsky (pronunciation)</p> <p>14 at the top.</p> <p>15 MR. SLATER: Right.</p> <p>16 THE WITNESS: Those first three articles</p> <p>17 I would think might be important. The Lane</p> <p>18 article, the Lensen article, Liang, Long,</p> <p>19 Long, Lowder, Lucente's last two articles,</p> <p>20 Lykke, Maher, and I believe I cited one of</p> <p>21 those, but all of the Maher articles. McEvoy</p> <p>22 on the next page, McLennan, Milani, Miller.</p> <p>23 I cited the Murphy "Time to Rethink" article,</p> <p>24 I believe. If I didn't, that would be</p> | <p style="text-align: right;">Page 113</p> <p>1 Vaiyapuri, two-year outcomes. Vaiyapuri, three-year</p> <p>2 outcomes. The Valentim-Lourenco article. Velemir.</p> <p>3 Wang, the first -- the second study. Weber I believe I</p> <p>4 cited. The last Weber article. Whiteside. All of the</p> <p>5 Withagen articles. Wong and Dietz, Wong's ICS</p> <p>6 abstract, Wu, Yakasai.</p> <p>7 Q There's two Wus.</p> <p>8 A Oh, I'm sorry. The second Wu.</p> <p>9 Q Okay.</p> <p>10 A And Yazdany and Yesil.</p> <p>11 Q All right.</p> <p>12 MR. SLATER: Now, you guys mentioned</p> <p>13 lunch. Do you want to break for lunch now</p> <p>14 and then come back soon?</p> <p>15 MR. ISMAIL: Sure.</p> <p>16 MR. SLATER: Or do you want to keep</p> <p>17 going? I'll do whatever you want.</p> <p>18 MR. ISMAIL: No, let's take a break.</p> <p>19 (Discussion off the written record.)</p> <p>20 THE VIDEOGRAPHER: We are now going off</p> <p>21 the video record. The time is currently</p> <p>22 1:13 p.m.</p> <p>23 (Lunch recess taken.)</p> <p>24 THE VIDEOGRAPHER: We are now back on</p> |

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| <p style="text-align: right;">Page 114</p> <p>1 the video record. The time is currently 2 1:56 p.m. 3 Q (By Mr. Slater) Okay, Dr. Lowman -- 4 A Yes. 5 Q -- I'm looking at your report, and you also 6 have a list after the list of literature of what you 7 called production materials at the end. 8 A Okay, let me get to that. 9 Q Sure. 10 A This is after the reliance list you're 11 talking about? 12 Q After the list of literature -- 13 A Yes. 14 Q -- the next thing, you have a list of 15 production materials. 16 A Yes. 17 Q Okay. What I'd like to do is ask you, first 18 of all, is this a list of materials that you compiled 19 yourself? 20 A Not completely myself, no. 21 Q Have you actually looked at everything on 22 this list of production materials, these three pages? 23 A I've looked at most of this at some point, 24 yes.</p> | <p style="text-align: right;">Page 116</p> <p>1 Q -- are you going to tell me that you -- 2 A I've watched an anatomy video in the past. I 3 don't know which one is -- there's several here, so I'm 4 not sure which of those anatomy videos I've actually 5 watched or not watched. I have not watched them all. 6 Q Is it possible that the anatomy video that 7 you've seen in the past is not one of these? 8 A I don't know if that's possible or not. I'm 9 assuming that this is exhaustive. 10 Q When you say you've seen an anatomy video -- 11 A Uh-huh. 12 Q -- are you able to tell me -- you're not able 13 to tell me which of these you have may have seen? 14 A No. 15 Q Is that correct? 16 A That's correct. 17 Q Is the anatomy video that you saw, regardless 18 of whether you can tell me which one it is -- 19 A Uh-huh. 20 Q -- of any significance to you in your 21 opinions in this case? 22 A No. 23 Q If we go to the last -- the third page of the 24 production materials, there's a series of Prolift</p> |
| <p style="text-align: right;">Page 115</p> <p>1 Q Well, before you became an expert in this 2 case, had you looked at -- other than -- well, 3 rephrase. 4 Before you were retained as an expert, had 5 you looked at these materials? 6 A No. I may have looked at an anatomy video, 7 but certainly not this expansive materials, no. 8 Q So basically you were just provided a bunch 9 of -- talking -- you just mentioned videos, so I'll 10 just talk about the videos. You were just given a 11 bunch of videos that were from Ethicon, and did you 12 actually watch them? 13 A I've watched anatomy videos over the course 14 of my career. I haven't watched all of these videos in 15 the past three months, no. 16 Q Have you watched any -- let's rephrase. 17 Talking on the first page, there's a series 18 of anatomy videos. 19 A Yes. 20 Q Have you watched any of those, those specific 21 anatomy videos, have you watched them? 22 A No, not recently. 23 Q When you say "not recently" -- 24 A Uh-huh. I've watched an anatomy video --</p> | <p style="text-align: right;">Page 117</p> <p>1 professional education videos. Are those of 2 significance to you in forming your opinions in this 3 case? 4 A No. 5 Q Did you even watch those in connection with 6 your work in this case? 7 A No. 8 Q Do you even know if you've ever seen any of 9 them? 10 A I don't know if I've seen these specifically. 11 I have seen professional education videos during my 12 career. 13 Q You just don't know if it's those? 14 A I don't know if it's those. 15 Q If we go to the first page of the production 16 materials, there's a list of -- at the beginning a 17 series of materials, and I'll just go through them real 18 quick. 19 A Okay. 20 Q There's one that just has some Bates numbers 21 on it. Do you know what that is? 22 A I don't know what a Bates number is. 23 Q It says ETH.MESH.020 -- 24 A Yes.</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 Q -- 17152.</p> <p>2 A I see that, uh-huh.</p> <p>3 Q Do you know -- do you know what that is?</p> <p>4 A No.</p> <p>5 Q Let me -- let me make this simple.</p> <p>6 There's -- you obviously gave some opinions about</p> <p>7 warnings or the information that was provided in the</p> <p>8 IFU and the patient brochure.</p> <p>9 A Right.</p> <p>10 Q We'll talk about that later, but you've given</p> <p>11 those opinions, correct?</p> <p>12 A Yes.</p> <p>13 Q Or you set forth that you had seen the IFU</p> <p>14 and seen the patient brochure; is that correct?</p> <p>15 A That's correct.</p> <p>16 Q Okay. Other than the IFUs and patient</p> <p>17 brochures that you've seen, on these three pages of</p> <p>18 production materials, I need to know, is there anything</p> <p>19 else you can -- well, let me withdraw that.</p> <p>20 Putting aside IFUs and patient brochures for</p> <p>21 a moment --</p> <p>22 A Yes.</p> <p>23 Q -- is there anything on these three pages of</p> <p>24 production materials that is significant to you in</p> | <p style="text-align: right;">Page 120</p> <p>1 two years after her surgery?</p> <p>2 A Yes. It still goes to the effort of Ethicon</p> <p>3 in educating the people that are using their products.</p> <p>4 Q Okay.</p> <p>5 A The biocompatibility risk assessment towards</p> <p>6 the bottom of the page.</p> <p>7 Q Okay.</p> <p>8 A Obviously the FDA safety communication on the</p> <p>9 second page. And then I think the rest are patient</p> <p>10 brochures and IFUs, slide decks. That would be it.</p> <p>11 Q Nothing else on these three pages --</p> <p>12 A No.</p> <p>13 Q -- other than what you identified, plus the</p> <p>14 IFUs, the patient brochures, and the side decks and the</p> <p>15 other materials you specifically identified?</p> <p>16 A That's correct.</p> <p>17 Q Okay. Now, if we go to the next page after</p> <p>18 that, there's a list of two pages -- there's a list of</p> <p>19 two pages that says "Other Materials."</p> <p>20 A Uh-huh.</p> <p>21 Q Are those materials of significant to you --</p> <p>22 significance to you in forming your opinions?</p> <p>23 A I'm reading through them. Obviously the FDA</p> <p>24 Public Health Notification we've already talked about</p> |
| <p style="text-align: right;">Page 119</p> <p>1 forming your opinions, something where you'll say,</p> <p>2 "Well, that document is important to me in forming my</p> <p>3 opinions in this case"?</p> <p>4 A Yes.</p> <p>5 Q So if you could just go through those three</p> <p>6 pages and tell me.</p> <p>7 A Okay.</p> <p>8 Q We've already talked about the videos, so --</p> <p>9 A Okay.</p> <p>10 Q -- we don't have to talk about those again.</p> <p>11 A Okay.</p> <p>12 Q But the rest, I just want to know if anything</p> <p>13 is of significance to you.</p> <p>14 A Okay. The professional education slide</p> <p>15 decks, the resource monographs, the surgical technique</p> <p>16 guides. I'm assuming you're considering the patient</p> <p>17 counseling guide as part of the patient brochures?</p> <p>18 Q Where do you see the patient counseling</p> <p>19 guide?</p> <p>20 A It's right before the videos.</p> <p>21 Q Oh, right. Is that something that you're</p> <p>22 relying on?</p> <p>23 A Yes.</p> <p>24 Q You realize that's a 2011 document, so it's</p> | <p style="text-align: right;">Page 121</p> <p>1 that, 2008, 2011, are important. The ACOG Frequently</p> <p>2 Asked Questions, the committee opinion, AUA position</p> <p>3 statement, I cited those. The IUGA Prolapse Guide for</p> <p>4 Women. ACOG Frequently Asked Questions again. The</p> <p>5 AUGS position statement. ACOG committee opinion, the</p> <p>6 AUA position statement. The Public Health Notification</p> <p>7 is listed a couple times. The SGA -- SGS position</p> <p>8 statement. And that would be it before the</p> <p>9 case-specific list.</p> <p>10 Q Okay. And you -- and that's including both</p> <p>11 pages, right?</p> <p>12 A That's both.</p> <p>13 Q Because there's two materials on the second</p> <p>14 page.</p> <p>15 A Yes, that's both pages.</p> <p>16 Q Okay. The last thing on that list of other</p> <p>17 materials is a June 2, 2006 Ethicon expert meeting,</p> <p>18 meshes for pelvic floor repair. Did you even look at</p> <p>19 that document?</p> <p>20 A I did not. If that relates to the consensus</p> <p>21 in the surgeon's monograph, that would be what I've</p> <p>22 looked at, but not this particular thing.</p> <p>23 Q But if there were meetings where Ethicon</p> <p>24 brought doctors and scientists together in 2006 and</p> |

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| <p style="text-align: right;">Page 122</p> <p>1 2007 in Germany, you're not aware of that?</p> <p>2 A I don't have those documents, no.</p> <p>3 Q Correct?</p> <p>4 A No, I haven't reviewed them.</p> <p>5 Q Okay. And then the last thing we have is the</p> <p>6 materials you looked at in connection with Ms. Hammons</p> <p>7 specifically, correct?</p> <p>8 A That's correct.</p> <p>9 Q There's a list of depositions. Did you read</p> <p>10 all those depositions?</p> <p>11 A No.</p> <p>12 Q Which did you read?</p> <p>13 A I read Dr. Baker's deposition, Patricia</p> <p>14 Hammons, Mike Heit, Dr. Lackey. Ann Weber is not on</p> <p>15 there, but I've read hers. And Dr. Zipper is not on</p> <p>16 here either, but I read his as well. And then</p> <p>17 Dr. Drolet.</p> <p>18 Q You've read Dr. Drolet's report?</p> <p>19 A I have.</p> <p>20 MR. SLATER: Okay, I was just handed</p> <p>21 what I guess is the materials list dated</p> <p>22 November 12, 2015, which I guess is an</p> <p>23 update. Can somebody mark that as an exhibit</p> <p>24 and give it to Dr. Lowman.</p> | <p style="text-align: right;">Page 124</p> <p>1 Q (By Mr. Slater) Do you know, as you sit here</p> <p>2 now, what criteria that committee opinion sets forth as</p> <p>3 the appropriate patients to have a mesh kit like the</p> <p>4 Prolift put in their body?</p> <p>5 A They support its use in high-risk patients.</p> <p>6 Q Do you recall how they define a high-risk</p> <p>7 patient?</p> <p>8 A I remember that they specifically state</p> <p>9 patients who have had recurrence, patients who have</p> <p>10 advanced degrees of prolapse. I don't remember beyond</p> <p>11 that.</p> <p>12 Q Do you know whether Patricia Hammons meets</p> <p>13 the criteria in Committee Opinion 513, or do you need</p> <p>14 to see the committee opinion?</p> <p>15 A She does.</p> <p>16 Q Okay. You think she does. Okay, that's</p> <p>17 fine.</p> <p>18 If, in fact, Patricia Hammons did not meet</p> <p>19 the committee opinion criteria, is it your opinion that</p> <p>20 she would not be a suitable candidate for the Prolift?</p> <p>21 A No.</p> <p>22 Q What was your criteria for the Prolift in</p> <p>23 terms of what patients you would offer it as an option</p> <p>24 to?</p> |
| <p style="text-align: right;">Page 123</p> <p>1 MS. DEMING: I'll need to go make a copy</p> <p>2 of it, but I can do that and come back.</p> <p>3 MR. SLATER: Questioning while that's</p> <p>4 being done. We can come back to it.</p> <p>5 Q (By Mr. Slater) I want to ask you a question</p> <p>6 about the AUGS/ACOG joint committee opinion, No. 513.</p> <p>7 That's one of the materials you said you relied on in</p> <p>8 this case?</p> <p>9 A Yes.</p> <p>10 Q Okay. Do you agree with the conclusions that</p> <p>11 are set forth in that committee opinion about what</p> <p>12 patients are appropriate candidates for the use of mesh</p> <p>13 kits like the Prolift?</p> <p>14 MR. ISMAIL: Objection to form.</p> <p>15 THE WITNESS: Do we have that available</p> <p>16 for me to look at? Do I have -- do you have</p> <p>17 that available for me to look at?</p> <p>18 MR. SLATER: No. I figured you knew it.</p> <p>19 I know it, so I just --</p> <p>20 THE WITNESS: I don't know it --</p> <p>21 MR. SLATER: -- ask questions about</p> <p>22 it.</p> <p>23 THE WITNESS: I don't know it word for</p> <p>24 word.</p> | <p style="text-align: right;">Page 125</p> <p>1 A Symptomatic pelvic organ prolapse.</p> <p>2 Q Any particular severity or grade?</p> <p>3 A Not necessarily.</p> <p>4 Q Would you put a Prolift into a Stage 1</p> <p>5 prolapse?</p> <p>6 A If it were symptomatic.</p> <p>7 Q Did you ever put a Prolift into a Stage 1</p> <p>8 prolapse?</p> <p>9 A It's not usually symptomatic, so, no, I have</p> <p>10 not. But if it were, I would consider it.</p> <p>11 Q But you never did, right?</p> <p>12 A No.</p> <p>13 Q Stage 1 prolapse actually is considered a</p> <p>14 normal finding, right?</p> <p>15 A I wouldn't call it normal. It's not normal</p> <p>16 support, which is Stage 0. Stage 1 is mild prolapse.</p> <p>17 Q What percentage of women do you think are</p> <p>18 walking around with a Stage 0?</p> <p>19 A I'd guess maybe 10 percent. If you haven't</p> <p>20 had children, the likelihood that you have Stage 0 is</p> <p>21 very high. Just -- it depends on the patient</p> <p>22 population that you're discussing.</p> <p>23 Q Percentage of women who have had children</p> <p>24 would you think are walking around with a Stage 0?</p> |

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| <p style="text-align: right;">Page 126</p> <p>1 A If I had to guess, maybe 5 percent.</p> <p>2 Q Now, is that a guess, or are you basing that</p> <p>3 on any study or clinical data?</p> <p>4 A I'm guessing, basing on my clinical</p> <p>5 experience, on my -- I'm basing that on my clinical</p> <p>6 experience.</p> <p>7 Q Would you agree there are many women who have</p> <p>8 Stage 2 prolapse and the symptoms are manageable and</p> <p>9 they don't need surgery?</p> <p>10 A Yes.</p> <p>11 Q Would you agree, in Patricia Hammons' case,</p> <p>12 that abdominal sacrocolpopexy was a reasonable</p> <p>13 treatment option for her?</p> <p>14 A Yes.</p> <p>15 Q Would you agree with me that for Patricia</p> <p>16 Hammons, that a suture repair of her prolapse was a</p> <p>17 reasonable treatment option?</p> <p>18 A That's a hard one for me to agree with. I'd</p> <p>19 have to say no.</p> <p>20 Q Understand my question. I'm not asking what</p> <p>21 you would have done, but here's my question: Do you</p> <p>22 agree with me that one of the reasonable options that</p> <p>23 could have been offered to Mrs. Hammons was a suture</p> <p>24 repair of her prolapse?</p> | <p style="text-align: right;">Page 128</p> <p>1 MR. ISMAIL: Objection to form.</p> <p>2 THE WITNESS: I believe there was an</p> <p>3 update to the IFU either in 2008 or 2009, and</p> <p>4 I believe that that would have been available</p> <p>5 to him.</p> <p>6 Q (By Mr. Slater) Do you know which patient</p> <p>7 brochure Ms. Hammons testified that she saw?</p> <p>8 A I don't.</p> <p>9 Q Do you know which patient brochure was --</p> <p>10 withdrawn.</p> <p>11 Do you know whether or not Dr. Baker</p> <p>12 identified a patient brochure that he had seen and was</p> <p>13 relying on at the time he counseled and operated on</p> <p>14 Ms. Hammons?</p> <p>15 A He did remark about giving -- that it was</p> <p>16 likely that he gave her a patient brochure.</p> <p>17 Q Do you know which one?</p> <p>18 A No. I don't believe he testified to that.</p> <p>19 Q In drawing your opinions in this case, was it</p> <p>20 important to you to know which IFU was actually</p> <p>21 available at the time that Dr. Baker counseled and</p> <p>22 operated on Ms. Hammons?</p> <p>23 MR. ISMAIL: Objection to form.</p> <p>24 THE WITNESS: No.</p> |
| <p style="text-align: right;">Page 127</p> <p>1 MR. ISMAIL: Objection. Asked and</p> <p>2 answered.</p> <p>3 THE WITNESS: No.</p> <p>4 MR. SLATER: Okay.</p> <p>5 Q (By Mr. Slater) One of the materials on your</p> <p>6 reliance list that you said is significant to you is</p> <p>7 the surgeon's monograph, right?</p> <p>8 A Yes.</p> <p>9 Q Do you know if it was available when</p> <p>10 Dr. Baker was trained?</p> <p>11 A I believe so. Well, I don't know when he was</p> <p>12 trained. I know it was available before the procedure</p> <p>13 that Mrs. Hammons had.</p> <p>14 Q Okay. Do you know whether or not Dr. Baker</p> <p>15 ever saw the monograph?</p> <p>16 A I don't know.</p> <p>17 Q Do you know whether or not the monograph was</p> <p>18 available when Dr. Baker was trained?</p> <p>19 A I don't know when he was trained.</p> <p>20 Q Do you know which patient brochure --</p> <p>21 rephrase.</p> <p>22 Do you know which IFU was actually available</p> <p>23 to Dr. Baker when he counseled Ms. Hammons and operated</p> <p>24 on her?</p> | <p style="text-align: right;">Page 129</p> <p>1 Q (By Mr. Slater) In forming your opinions in</p> <p>2 this case, was it important for you to know which</p> <p>3 patient brochure Ms. Hammons actually saw?</p> <p>4 A No.</p> <p>5 Q In forming your opinions in this case, was it</p> <p>6 significant to you whether or not Dr. Baker actually</p> <p>7 saw the monograph?</p> <p>8 A No.</p> <p>9 Q Do you know which of the Prolift professional</p> <p>10 education slide decks was in use when Dr. Baker was</p> <p>11 trained on the Prolift at an Ethicon event?</p> <p>12 A I don't.</p> <p>13 Q Was it of any significance to you -- well,</p> <p>14 rephrase.</p> <p>15 Is it of any significance to you to know</p> <p>16 which professional education slide deck would have been</p> <p>17 utilized in Dr. Baker's training by Ethicon on the</p> <p>18 Prolift?</p> <p>19 A No.</p> <p>20 Q Do you know why Ethicon marketed the</p> <p>21 Prolift+M?</p> <p>22 MR. ISMAIL: Objection to form.</p> <p>23 THE WITNESS: No.</p> <p>24 Q (By Mr. Slater) Do you know why Ethicon</p> |

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| <p style="text-align: right;">Page 130</p> <p>1 developed the Prolift M in order to be able to market 2 it?</p> <p>3 MR. ISMAIL: Objection to form.</p> <p>4 THE WITNESS: I have an idea about some 5 of the concepts behind lighter weight mesh, 6 if that's what you're getting to. I can't 7 speak to what Ethicon was thinking.</p> <p>8 Q (By Mr. Slater) It's your assumption that 9 Ethicon developed the Prolift+M because it was a 10 lighter weight mesh than the Gynemesh PS mesh?</p> <p>11 A That's my assumption, yes.</p> <p>12 Q Do you agree that lighter weight mesh is 13 considered in the urogynecology community and 14 literature to have safety advantages as against heavier 15 weight meshes?</p> <p>16 MR. ISMAIL: Objection to form.</p> <p>17 THE WITNESS: I believe that is a 18 theory, yes.</p> <p>19 Q (By Mr. Slater) Do you agree with that?</p> <p>20 A No.</p> <p>21 Q Do you think that the safety profile for a 22 heavyweight mesh or a mid-weight mesh is the same for 23 that as a lightweight mesh?</p> <p>24 MR. ISMAIL: Objection to form.</p> | <p style="text-align: right;">Page 132</p> <p>1 on with the Prolift --</p> <p>2 A Yes.</p> <p>3 Q -- those 150 patients, do you know how many 4 of them had erosions?</p> <p>5 A I can't speak to that because I left my 6 fellowship program during part of what would have been 7 the follow-up for some of them. I can say for the 8 approximately half that I operated on in -- while I've 9 been at Kaiser, that there have been three erosions.</p> <p>10 Q That you know of?</p> <p>11 A That I know of.</p> <p>12 Q You would agree with me that you may have 13 patients who had complications from a Prolift who 14 didn't return to you but went to another doctor for 15 treatment?</p> <p>16 A That's possible. That would be unlikely, 17 though, because of the way that Kaiser is structured 18 where patients have to see Kaiser doctors if they have 19 Kaiser insurance, but it is possible.</p> <p>20 Q Well, it's possible that you operated on a 21 patient with a Prolift, she had complications, and then 22 whether or not you treated those complications, 23 eventually went to somebody else?</p> <p>24 A That's possible.</p> |
| <p style="text-align: right;">Page 131</p> <p>1 THE WITNESS: No.</p> <p>2 Q (By Mr. Slater) Do you -- do you agree with 3 me that a lightweight mesh is considered to be safer 4 than a mid-weight or a heavyweight mesh?</p> <p>5 MR. ISMAIL: Objection to form.</p> <p>6 THE WITNESS: No.</p> <p>7 Q (By Mr. Slater) Do you have an opinion to a 8 reasonable degree of medical probability as to whether 9 or not there are any safety advantages as between the 10 Prolift M as compared to the Prolift? Do you have an 11 opinion one way or another on that subject?</p> <p>12 A I do.</p> <p>13 You fell out. I'm sorry.</p> <p>14 Q Sure. What is your opinion?</p> <p>15 A My opinion is that there is a theory that 16 lighter weight mesh might decrease the risk of 17 complications with pelvic organ prolapse repair. 18 However, that has not been demonstrated in the 19 literature.</p> <p>20 Q I asked you a little bit earlier about your 21 own Prolift patients. I want to go back to that for a 22 couple of minutes.</p> <p>23 A Okay.</p> <p>24 Q With your -- with patients that you operated</p> | <p style="text-align: right;">Page 133</p> <p>1 Q You can't say that hasn't happened, right?</p> <p>2 MR. ISMAIL: Objection. Asked and 3 answered.</p> <p>4 THE WITNESS: That's possible.</p> <p>5 Q (By Mr. Slater) Do you know any of the 6 standards that Ethicon itself applied to whether or not 7 the warnings and information provided in the IFU and 8 the patient brochure were adequate?</p> <p>9 A I don't know.</p> <p>10 Q Do you know any of the standards that are 11 applied in general to medical device manufacturers in 12 providing information in an IFU or a patient brochure 13 in terms of what type of information should be 14 supplied?</p> <p>15 A No.</p> <p>16 Q In giving your opinions as to whether or not 17 the warnings and information in the IFU was adequate, 18 were you basing that on your own analysis of the 19 information and your own understanding of what 20 information you would need?</p> <p>21 A Yes.</p> <p>22 Q In offering your opinions with regard to 23 whether the information provided in the patient 24 brochure was adequate, were you basing that upon your</p> |

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| <p style="text-align: right;">Page 134</p> <p>1 own evaluation of what information you would personally</p> <p>2 need in your practice?</p> <p>3 A Yes.</p> <p>4 Q Were you at all curious as to what standards</p> <p>5 Ethicon felt it was bound to meet in terms of what</p> <p>6 information and warnings would need to be provided to</p> <p>7 physicians with regard to the Prolift?</p> <p>8 MR. ISMAIL: Objection to form.</p> <p>9 THE WITNESS: No.</p> <p>10 Q (By Mr. Slater) That was of no significance</p> <p>11 to you?</p> <p>12 A No.</p> <p>13 Q If I understand correctly, with regard to the</p> <p>14 warning opinions, those are based on your own</p> <p>15 evaluation of what information you would need in your</p> <p>16 practice; is that a correct statement?</p> <p>17 A That's correct.</p> <p>18 Q In your own practice, if Ethicon had</p> <p>19 information that patients were experiencing very severe</p> <p>20 complications from the Prolift and that some of those</p> <p>21 complications could not be safely and effectively</p> <p>22 treated and the women were being left with permanent</p> <p>23 pain due to the Prolift itself, would you have wanted</p> <p>24 to have that information?</p> | <p style="text-align: right;">Page 136</p> <p>1 MR. ISMAIL: Objection to form.</p> <p>2 THE WITNESS: Could you repeat the</p> <p>3 question?</p> <p>4 Q (By Mr. Slater) Is that your assumption in</p> <p>5 drawing your opinions in this case?</p> <p>6 MR. ISMAIL: Objection to form. Do you</p> <p>7 need to hear back --</p> <p>8 THE WITNESS: I need to hear back the</p> <p>9 question. I'm sorry.</p> <p>10 Q (By Mr. Slater) In drawing your opinions in</p> <p>11 this case with regard to whether the Prolift is safe or</p> <p>12 not --</p> <p>13 A Uh-huh.</p> <p>14 Q -- did you assume that when a woman would</p> <p>15 have complications related to the Prolift mesh, that</p> <p>16 those complications could be safely and effectively</p> <p>17 treated and the woman would then be okay going forward?</p> <p>18 MR. ISMAIL: Objection --</p> <p>19 Q Is that your assumption with regard to</p> <p>20 mesh-related complications?</p> <p>21 MR. ISMAIL: Objection to form.</p> <p>22 THE WITNESS: The majority of cases,</p> <p>23 yes.</p> <p>24 Q (By Mr. Slater) Did you assume that for some</p> |
| <p style="text-align: right;">Page 135</p> <p>1 MR. ISMAIL: Objection to form.</p> <p>2 THE WITNESS: Not necessarily.</p> <p>3 Q (By Mr. Slater) In drawing your opinions in</p> <p>4 this case with regard to the safety of the Prolift, did</p> <p>5 you assume that there are some women who have a Prolift</p> <p>6 put in their body and that due to the complications</p> <p>7 with the mesh, they suffer injuries that are permanent</p> <p>8 and life altering? Did you assume that that happens to</p> <p>9 some women due to the Prolift mesh?</p> <p>10 MR. ISMAIL: Objection to form.</p> <p>11 THE WITNESS: No.</p> <p>12 Q (By Mr. Slater) In drawing your opinions in</p> <p>13 this case, did you assume -- rephrase.</p> <p>14 In drawing your opinions in this case with</p> <p>15 regard to whether or not the Prolift is safe, was it</p> <p>16 your assumption that if a woman has complications</p> <p>17 related to the Prolift mesh, that those -- those</p> <p>18 complications can be safely and effectively treated</p> <p>19 such that the women will be okay going forward?</p> <p>20 MR. ISMAIL: Objection to form.</p> <p>21 THE WITNESS: That's been my</p> <p>22 experience.</p> <p>23 Q (By Mr. Slater) And is that your assumption</p> <p>24 in drawing your opinions in this case?</p> | <p style="text-align: right;">Page 137</p> <p>1 women, that they could have Prolift mesh-related</p> <p>2 complications that could not be safely and effectively</p> <p>3 treated despite the best care and the women would be</p> <p>4 left with permanent pain and permanent damage?</p> <p>5 MR. ISMAIL: Objection to form.</p> <p>6 THE WITNESS: Okay, you keep saying</p> <p>7 "assume," and I'm not sure what you're</p> <p>8 implying by that. Is it my opinion --</p> <p>9 Q (By Mr. Slater) As an expert --</p> <p>10 A I'm sorry.</p> <p>11 Q I'm asking, in drawing your opinions, what</p> <p>12 facts you're assuming or what your understanding of the</p> <p>13 facts is --</p> <p>14 A Okay.</p> <p>15 Q -- or are.</p> <p>16 A Okay.</p> <p>17 Q So you draw an opinion based on facts that</p> <p>18 you believe exist, right?</p> <p>19 A That's correct.</p> <p>20 Q In drawing your opinions regarding the safety</p> <p>21 of the Prolift --</p> <p>22 A Uh-huh.</p> <p>23 Q -- did you assume that if a woman has</p> <p>24 complications related to the Prolift mesh, that for</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 some of those women, they can't be successfully treated</p> <p>2 and they can be left with permanent disabling pain and</p> <p>3 damage?</p> <p>4 MR. ISMAIL: Objection to form.</p> <p>5 THE WITNESS: I didn't make any</p> <p>6 assumptions in formulating my opinions about</p> <p>7 the Prolift. In my clinical experience,</p> <p>8 women that have had complications with the</p> <p>9 Prolift have been able to be successfully</p> <p>10 treated.</p> <p>11 Q (By Mr. Slater) So in evaluating the safety</p> <p>12 of the Prolift, you base that on your personal</p> <p>13 experience with managing complications?</p> <p>14 A As well as the medical literature.</p> <p>15 MR. SLATER: Do we have the updated</p> <p>16 reliance list yet in the room?</p> <p>17 MR. GOODALL: Yes, we do.</p> <p>18 MR. SLATER: All right. Can we mark</p> <p>19 that as whatever the next -- you know what,</p> <p>20 actually, don't mark it as the next exhibit</p> <p>21 because I have a series that are premarked,</p> <p>22 so just to be safe, let's mark it as Exhibit</p> <p>23 22.</p> <p>24 (Exhibit 22 marked for identification.)</p> | <p style="text-align: right;">Page 140</p> <p>1 A There's no way for me --</p> <p>2 Q First it's just a yes or no. Would you be</p> <p>3 able to tell me?</p> <p>4 A There's no way for me to tell you that, no.</p> <p>5 Q Let me ask you this: Did you personally add</p> <p>6 anything to this list because you thought it was</p> <p>7 something that was important to you and significant to</p> <p>8 you in forming your opinions in this case?</p> <p>9 A If I added it to the list, most likely, yes.</p> <p>10 Q Now, you have this list here. Is there</p> <p>11 anything that you can identify for me on this list that</p> <p>12 was added by you at your insistence because you felt</p> <p>13 like, "Oh, I left this off the list. I need to rely on</p> <p>14 this, it's important to me for my opinions, so I'm</p> <p>15 adding it to the list"?</p> <p>16 A Okay, let me look through it. On the third</p> <p>17 page, the articles by Cobb. And I'm not -- I think the</p> <p>18 Feola might be in addition. I don't remember</p> <p>19 specifically.</p> <p>20 Q Which one?</p> <p>21 A The Feola article towards the end of that</p> <p>22 same page.</p> <p>23 Q Feola I have on the third -- I have on the</p> <p>24 next page.</p> |
| <p style="text-align: right;">Page 139</p> <p>1 THE WITNESS: Okay.</p> <p>2 Q (By Mr. Slater) Okay, Doctor, I was provided</p> <p>3 this list of updated -- well, rephrase.</p> <p>4 Doctor, what we've marked as Exhibit 22, can</p> <p>5 you tell me what that is?</p> <p>6 A I believe that this is a supplement to my</p> <p>7 reliance list.</p> <p>8 Q Did you prepare this supplement?</p> <p>9 A Not by myself, no.</p> <p>10 Q Are there articles on this list that you have</p> <p>11 not read?</p> <p>12 A I've read most of these articles at some</p> <p>13 point.</p> <p>14 Q Well, most. I'm asking, are there any that</p> <p>15 you haven't read?</p> <p>16 A There might be.</p> <p>17 Q All right. This list looks like it is the</p> <p>18 prior list with some additions to it. Is that</p> <p>19 accurate?</p> <p>20 A Yes.</p> <p>21 Q There's no way for me to know unless I go</p> <p>22 through it. Is there any way for you to tell me what</p> <p>23 was added to this list yesterday that I saw today for</p> <p>24 the first time?</p> | <p style="text-align: right;">Page 141</p> <p>1 A There must be another one. The article title</p> <p>2 is "Deterioration in Biomechanical Properties of the</p> <p>3 Vagina Following Implantation of a High Stiffness</p> <p>4 Prolapse Mesh."</p> <p>5 Q Got it. You originally told me the Cobb</p> <p>6 articles and I checked them. After that, the next one</p> <p>7 is Feola, right?</p> <p>8 A Yes, yes.</p> <p>9 Q Okay.</p> <p>10 A I think my tobacco use article might be an</p> <p>11 addition. I'm not sure about the Peter Sand article.</p> <p>12 This is -- three, four, five, six, seven, eight, nine,</p> <p>13 ten. It's on the tenth page, the very top.</p> <p>14 Q I see it. Okay.</p> <p>15 A I need to keep up with the pages. I think</p> <p>16 it's three pages after the page we were just on.</p> <p>17 Velemir -- no, I'm sorry, Walters, Urogynecology and</p> <p>18 Reconstructive Pelvic Surgery, Third Edition.</p> <p>19 Q Okay.</p> <p>20 A And I think that's it.</p> <p>21 Q If you turn forward, there's the section of</p> <p>22 materials list where you have -- it starts with</p> <p>23 "Document Description" after the -- after the</p> <p>24 literature list. Do you see that?</p> |

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| <p style="text-align: right;">Page 142</p> <p>1 A Yes.</p> <p>2 Q Was anything added to this list?</p> <p>3 A Let me look.</p> <p>4 Q And I'll ask the question differently. Was</p> <p>5 anything added to this list that's of any significance</p> <p>6 to you in forming your opinions?</p> <p>7 A Okay. I don't see anything added to that</p> <p>8 section that was important for me.</p> <p>9 Q Then if we go to the list three pages forward</p> <p>10 that says "Publicly Available" at the top --</p> <p>11 A Uh-huh.</p> <p>12 Q -- was anything added to that list that's of</p> <p>13 any significance to you?</p> <p>14 A Not other than what we've talked about, no.</p> <p>15 Q Then if we go to the depositions and</p> <p>16 exhibits, in comparing, it looks like they added</p> <p>17 Dr. Zipper's deposition?</p> <p>18 A Uh-huh. Yes. And Dr. Weber.</p> <p>19 Q And Dr. Weber's deposition?</p> <p>20 A Yes.</p> <p>21 Q Do you know if any medical records were</p> <p>22 added?</p> <p>23 A I don't know.</p> <p>24 Q Have you looked at any additional medical</p> | <p style="text-align: right;">Page 144</p> <p>1 A Yes.</p> <p>2 Q Then there's an "Other" section. Let me ask</p> <p>3 you this: The expert reports, had you read them when</p> <p>4 you wrote your original report, or did you read them</p> <p>5 after you wrote your report?</p> <p>6 A I did not have available to me the reports of</p> <p>7 Julie Drolet or Dr. Klinge. The rest of them I had.</p> <p>8 Q And you've already confirmed to me that the</p> <p>9 report contains your opinions. Are there any other</p> <p>10 opinions outside of the report that you formed based on</p> <p>11 what you saw after you wrote your report, or can I rely</p> <p>12 on your report for your opinions?</p> <p>13 MR. ISMAIL: Objection to form.</p> <p>14 THE WITNESS: I'm not sure I know how to</p> <p>15 answer that.</p> <p>16 Q (By Mr. Slater) Getting at. As a lawyer, we</p> <p>17 use the report to have an understanding of what</p> <p>18 opinions the expert has so we can be prepared.</p> <p>19 A Right.</p> <p>20 Q I just need to know, are there other opinions</p> <p>21 that you have that are not in the report? Before, you</p> <p>22 told me they're in the report.</p> <p>23 A Oh, my --</p> <p>24 Q I just want to know if there's anything else.</p> |
| <p style="text-align: right;">Page 143</p> <p>1 records in the -- since the time you wrote your report,</p> <p>2 or had you seen them all at the time you wrote the</p> <p>3 report?</p> <p>4 A I'd seen them all at the time I wrote the</p> <p>5 report, I believe. There were some additional records</p> <p>6 given. I have not reviewed them. So what I had at the</p> <p>7 time of the report is what I reviewed.</p> <p>8 Q Do you know what it was that you were given</p> <p>9 but you have not reviewed since you wrote the report?</p> <p>10 A There were some additional hospital records,</p> <p>11 but I don't know what hospital they were from.</p> <p>12 Q For your opinions because you haven't seen</p> <p>13 them, correct?</p> <p>14 A Correct.</p> <p>15 Q I'm sorry. Okay, you heard me?</p> <p>16 A Yes, I could read your lips.</p> <p>17 Q We're getting better at this.</p> <p>18 A Yeah.</p> <p>19 Q They added at the end of this expert reports.</p> <p>20 Have you read each of those expert reports?</p> <p>21 A I have not read the report of Peggy Pence.</p> <p>22 Q The expert report of Ann Weber, was it -- was</p> <p>23 it a single report that was written in this case, the</p> <p>24 one that you read?</p> | <p style="text-align: right;">Page 145</p> <p>1 A Yes, there are, because I was not privy to --</p> <p>2 I didn't have Dr. Drolet's report or Dr. Klinge's</p> <p>3 report at the time, and I do have some opinions about</p> <p>4 those.</p> <p>5 Q Let's go. Dr. Drolet, tell me your opinions.</p> <p>6 A Do you want to ask me a question?</p> <p>7 Q Based on Dr. Drolet's report, what are those</p> <p>8 opinions?</p> <p>9 A We can't -- you have to restate the question.</p> <p>10 Q You said -- okay. You said that you have</p> <p>11 additional opinions based on Dr. Drolet's report. What</p> <p>12 are those opinions?</p> <p>13 A Well, if I had to identify one that stands</p> <p>14 out in my mind that is different is that when I wrote</p> <p>15 my initial report, I talked about the fact that I felt</p> <p>16 like Mrs. Hammons might have interstitial cystitis</p> <p>17 because Dr. Zipper noted that she had pain with</p> <p>18 palpation of her anterior vaginal wall. Dr. Drolet did</p> <p>19 not make that notation. So if that's not the case,</p> <p>20 then that diagnosis would be less likely.</p> <p>21 Q Interstitial -- well, rephrase. Let me</p> <p>22 withdraw it.</p> <p>23 Are there any other opinions based on</p> <p>24 Drolet's report?</p> |

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| <p style="text-align: right;">Page 146</p> <p>1 A You know, there might be. I'd have to have 2 you ask me a specific question. That was one thing 3 that I remember, but I -- 4 Q I'm not going to -- 5 A That's what I remember. 6 Q The way this works is -- I'm sorry, Doctor, 7 the way this works is I ask you what opinions you have. 8 A Okay. 9 Q I'm not going to -- you know, so I need to 10 know. This is my chance to get notice. 11 A Okay. 12 Q So are there any other opinions that you have 13 based on Drolet's report other than what you just told 14 me? 15 MR. ISMAIL: Objection to form. 16 THE WITNESS: Just opinions about the 17 entire case, opinions about the patient's 18 pain, just anything? 19 MR. SLATER: I'm asking for new 20 opinions. I'm asking for new opinions, 21 anything new beyond what's in your report 22 based on reading Drolet's report. 23 THE WITNESS: I'd have to think about 24 the report.</p> | <p style="text-align: right;">Page 148</p> <p>1 A No. 2 Q Is that your testimony? 3 A That's my testimony. 4 Q Okay. Are you saying that interstitial 5 cystitis is purely a clinical diagnosis without 6 observation of the inside of the bladder? 7 A You -- interstitial cystitis is a clinical 8 diagnosis. There is a procedure called cystoscopy with 9 hydrodistention that is done in the operating room 10 under general anesthesia, which can be used to aid in 11 that diagnosis. Office cystoscopy does not rule in or 12 rule out interstitial cystitis. 13 Q Let me ask you a question. If somebody has 14 interstitial cystitis and they have cystoscopy, there 15 are certain things that one would expect to see on the 16 bladder wall on cystoscopy, correct? 17 A Not in office cystoscopy, no. 18 Q Okay. Did any doctor ever diagnose 19 interstitial cystitis for Ms. Hammons? 20 A No. 21 Q You said that you saw Dr. Klinge's report 22 after you submitted your report and that that -- I 23 think you said that that may have also triggered new 24 opinions. Did it or did I misunderstand?</p> |
| <p style="text-align: right;">Page 147</p> <p>1 MR. SLATER: Understand, Doctor, I'm not 2 going to trying to convince you to come up 3 with more opinions. I just want to know that 4 when I'm done with the deposition -- 5 THE WITNESS: Right. 6 MR. SLATER: -- I know what opinions you 7 have. I'm not asking you to come up with 8 stuff. 9 THE WITNESS: Right. I mean, that's the 10 only think that I can think of that would be 11 different. 12 Q (By Mr. Slater) Let me ask you a question 13 about interstitial cystitis. 14 A Okay. 15 Q Ms. Hammons has had cystoscopy, correct? 16 A She has. 17 Q There have been no findings on cystoscopy 18 through which a diagnosis of interstitial cystitis was 19 made, correct? 20 A That's not how interstitial cystitis is 21 diagnosed. 22 Q Doctors will not use a cystoscopic view of 23 the inside of the bladder as part of the process of 24 diagnosing or ruling out interstitial cystitis?</p> | <p style="text-align: right;">Page 149</p> <p>1 A Did that trigger new opinions? I don't think 2 so, no. 3 Q I'm just going through a few things to try to 4 shorten this fun process. 5 MR. SLATER: All right, can we -- if 6 you could, Jon, could we give Dr. Lowman 7 Exhibit 2. 8 THE WITNESS: I have the exhibit. 9 Q (By Mr. Slater) Doctor, I want to ask you 10 one -- okay. Let me ask you a question. Have you 11 published any articles in the peer-reviewed literature 12 since your -- since your fellowship was done? 13 A I have not. 14 Q Now, this Exhibit 2 is an article titled 15 "Pelvic Magnetic Resonance Imaging for Assessment of 16 the Efficacy of the Prolift System for Pelvic Organ 17 Prolapse," and you're listed as one of the authors, 18 correct? 19 A That's correct. 20 Q You worked on this study during your 21 fellowship under Dr. Hale, correct? 22 A That's correct. 23 Q This study and the conclusions were based on 24 MRIs performed on 10 patients, correct?</p> |

38 (Pages 146 to 149)

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| <p style="text-align: right;">Page 150</p> <p>1 A Yes.</p> <p>2 Q If you could, go to page E4.</p> <p>3 A Okay.</p> <p>4 Q In the "Comments" section in the center</p> <p>5 column about halfway down the page, there's a sentence</p> <p>6 that says that, "Minimal tissue reaction was observed</p> <p>7 on postoperative MRIs which supported the inert nature</p> <p>8 of the polypropylene mesh." Do you see that sentence?</p> <p>9 A Not yet. Yes, I see it.</p> <p>10 Q Are MRIs routinely used to evaluate patients</p> <p>11 following mesh surgery?</p> <p>12 A No.</p> <p>13 Q A little more than halfway down in the</p> <p>14 "Comment" column in the middle of page E4, there's a</p> <p>15 sentence that says, "However, it certainly does not</p> <p>16 deem it to be 'safe.' Pain, fibrosis, mesh erosion,</p> <p>17 and mesh contracture are complications that have been</p> <p>18 reported with vaginally placed mesh and may not depend</p> <p>19 on inflammation." Do you see that?</p> <p>20 A I do.</p> <p>21 Q Is that a statement that you stand by?</p> <p>22 A I did not write that statement.</p> <p>23 Q You're one of the co-authors. Do you</p> <p>24 disagree with that statement?</p> | <p style="text-align: right;">Page 152</p> <p>1 Q Did Dr. Hale participate in writing this</p> <p>2 article?</p> <p>3 A I wrote the article. I'm sure that I had him</p> <p>4 to review the article before it was published.</p> <p>5 Q I want to ask you a few questions about,</p> <p>6 first, the body of the article. Right on the front</p> <p>7 page, the right-hand column, the third column over --</p> <p>8 A Uh-huh.</p> <p>9 Q -- about four lines down there's a sentence</p> <p>10 that says, "Its ergonomic design makes it easier to</p> <p>11 place the graft in traditionally 'hard to reach</p> <p>12 places.'" Do you see that?</p> <p>13 A I do.</p> <p>14 Q Did you write that sentence?</p> <p>15 A I did.</p> <p>16 Q Did Ethicon see this article before it was</p> <p>17 published?</p> <p>18 A I don't remember.</p> <p>19 Q Did Ethicon have input into the language of</p> <p>20 this article before it was published?</p> <p>21 A No.</p> <p>22 Q How do you know that?</p> <p>23 A Because I wrote it.</p> <p>24 Q Was the article -- well, let me ask you this:</p> |
| <p style="text-align: right;">Page 151</p> <p>1 A I would not have used the word that this</p> <p>2 doesn't mean it to be safe. I think that's misleading.</p> <p>3 Can you see pain, fibrosis, et cetera, yes, I agree</p> <p>4 with that part.</p> <p>5 Q Each of those complications listed -- pain,</p> <p>6 fibrosis, mesh erosion, and mesh contracture -- are</p> <p>7 complications that occur in some women with the</p> <p>8 Prolift, correct?</p> <p>9 A Correct.</p> <p>10 Q Let's go to Exhibit 3.</p> <p>11 A Sorry. Okay.</p> <p>12 Q Exhibit 3 is an article titled "Does the</p> <p>13 Prolift System Cause Dyspareunia," and you're listed as</p> <p>14 one of the authors, correct?</p> <p>15 A Yes.</p> <p>16 Q The order in which the authors are listed is</p> <p>17 significant; the most senior author who's generally the</p> <p>18 lead of the study is listed last, correct?</p> <p>19 A The most senior author is listed last, yes.</p> <p>20 Q And that would be Dr. Hale here?</p> <p>21 A Dr. Hale.</p> <p>22 Q Okay. Is there any disclosure of conflict of</p> <p>23 interest in this article?</p> <p>24 A I don't see one, no.</p> | <p style="text-align: right;">Page 153</p> <p>1 Do you know if Dr. Hale shared the article with Ethicon</p> <p>2 before it was published and accepted any of their input</p> <p>3 into the language?</p> <p>4 A I don't know if he shared the information</p> <p>5 with Ethicon or not, but I'm the one that wrote this</p> <p>6 article and I'm responsible for that sentence.</p> <p>7 Q When you said that "the graft can be placed</p> <p>8 in traditionally hard to reach places," where are you</p> <p>9 talking about?</p> <p>10 A I'm talking about the fact that the mesh</p> <p>11 spans from arcus to arcus and provides almost a</p> <p>12 paravaginal-like repair in doing that. It's very</p> <p>13 difficult to do a paravaginal repair vaginally. It's</p> <p>14 hard to see those spaces. And with the Prolift, the</p> <p>15 way that it's designed, you don't have to see them.</p> <p>16 Q Are you talking about the places where the</p> <p>17 arms can be placed?</p> <p>18 A No. I'm talking about -- I do think that it</p> <p>19 applies in that situation as well, but I'm talking</p> <p>20 about the way that the mesh spans in the anterior</p> <p>21 compartment, the mesh is designed to go from what we</p> <p>22 call arcus to arcus, and in -- and in doing so, it</p> <p>23 provides a paravaginal defect repair. It's difficult</p> <p>24 to do that vaginally, and with the Prolift, it's</p> |

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| <p style="text-align: right;">Page 154</p> <p>1 easier.</p> <p>2 Q Do the arms and the use of the cannula and</p> <p>3 guide system enable one to be able to get the body of</p> <p>4 the mesh to go arcus to arcus? Does that help to</p> <p>5 enable that?</p> <p>6 A Yes.</p> <p>7 Q It does that because the arms get pulled out</p> <p>8 through the exit points and that helps to pull the mesh</p> <p>9 out and span that area within the pelvis that you just</p> <p>10 described, correct?</p> <p>11 A That's correct.</p> <p>12 Q Okay. And those are areas that are difficult</p> <p>13 to reach with conventional surgical techniques,</p> <p>14 correct?</p> <p>15 A That's correct.</p> <p>16 Q Therefore, when one has complications with</p> <p>17 the mesh in those areas, those are difficult to reach</p> <p>18 areas to treat those mesh complications, correct?</p> <p>19 A You don't -- you don't need to reach those</p> <p>20 same areas that the trocars are traversing. Usually</p> <p>21 areas that are causing the patient's pain are palpable</p> <p>22 transvaginally, and if you're able to transect or</p> <p>23 release tension in that area, then it's not necessary</p> <p>24 to kind of get out to those same spaces.</p> | <p style="text-align: right;">Page 156</p> <p>1 Q I'm about -- just below where I just read,</p> <p>2 maybe about 10 lines further down, 12 lines further</p> <p>3 down.</p> <p>4 MR. ISMAIL: In the next paragraph.</p> <p>5 THE WITNESS: Next paragraph.</p> <p>6 MR. SLATER: And it's -- the references</p> <p>7 to that sentence are 12 and 14.</p> <p>8 THE WITNESS: Yes, I see it.</p> <p>9 Q (By Mr. Slater) And those references, 12 and</p> <p>10 14, include an article. No. 12 is by members of the</p> <p>11 French TVM group, correct?</p> <p>12 A That's correct.</p> <p>13 Q They're the people that developed and</p> <p>14 invented the Prolift system, correct?</p> <p>15 A That's correct.</p> <p>16 Q So you're citing the inventors of the Prolift</p> <p>17 for the proposition that there is concern that the rate</p> <p>18 of de novo dyspareunia with this procedure may be</p> <p>19 unacceptably high, correct?</p> <p>20 A That's correct.</p> <p>21 Q This "Materials and Methods" section of this</p> <p>22 article says that all cases of Prolift performed</p> <p>23 between August 2005 and August 2007 were evaluated.</p> <p>24 Those are cases that were performed on patients during</p> |
| <p style="text-align: right;">Page 155</p> <p>1 Q Are you aware that the mesh can contract</p> <p>2 anywhere within the pelvis, including in areas where</p> <p>3 it's difficult to operate through conventional</p> <p>4 techniques?</p> <p>5 MR. ISMAIL: Objection to --</p> <p>6 THE WITNESS: Yes.</p> <p>7 MR. ISMAIL: -- form.</p> <p>8 THE WITNESS: Sorry.</p> <p>9 Q (By Mr. Slater) And are you aware that that</p> <p>10 contraction can lead to pain for the patient?</p> <p>11 A Yeah.</p> <p>12 Q Do you know whether Ethicon, in designing the</p> <p>13 Prolift, made any effort to come up with a way to treat</p> <p>14 complications when women would suffer complications</p> <p>15 related to the mesh? Do you know if Ethicon even</p> <p>16 looked at that issue?</p> <p>17 MR. ISMAIL: Objection to form.</p> <p>18 THE WITNESS: I don't know.</p> <p>19 Q (By Mr. Slater) On the first page just below</p> <p>20 where we just read, there's a sentence that says --</p> <p>21 it's the first full paragraph -- "There is concern,</p> <p>22 however, that the rate of de novo dyspareunia with this</p> <p>23 procedure may be unacceptably high." Do you see that?</p> <p>24 A I'm sorry, where did you say you were?</p> | <p style="text-align: right;">Page 157</p> <p>1 your fellowship?</p> <p>2 A Yeah.</p> <p>3 Q Were you personally involved in each of those</p> <p>4 procedures?</p> <p>5 A Not in all of them, no.</p> <p>6 Q On page E2, in the left-hand column, about</p> <p>7 eight lines down, it says, "The rate of de novo</p> <p>8 dyspareunia was calculated using chart review and</p> <p>9 telephone interview." That's what it says, correct?</p> <p>10 A Yes.</p> <p>11 Q And I've read through the article, and it</p> <p>12 appeared to me that the way that you calculated these</p> <p>13 numbers ultimately was you did a chart review and,</p> <p>14 based on what was documented in the chart, calculated</p> <p>15 the percentages and the figures you came up with; is</p> <p>16 that correct?</p> <p>17 A And telephone interview, yes.</p> <p>18 Q What -- the telephone interview, what did</p> <p>19 that entail?</p> <p>20 A I'm trying to recollect that. If I remember</p> <p>21 correctly, I believe that the telephone interview was</p> <p>22 specifically for patients that we had incomplete data</p> <p>23 on, to try to get a better picture of who actually had</p> <p>24 dyspareunia and who didn't if they hadn't followed up.</p> |

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| <p style="text-align: right;">Page 158</p> <p>1 Q I'm looking at the left column on page E2 and 2 then over to the center column. And what it appears to 3 me from reading it is that you had the data you had 4 from the chart review and then you contacted people and 5 asked them if they were willing to answer 6 questionnaires; and if they were willing to do it, you 7 sent the questionnaires to them to potentially 8 supplement the information that you had obtained 9 through the chart review. Is that accurate? 10 MR. ISMAIL: Objection to form. If you 11 need to read it, you can. 12 THE WITNESS: Yeah, let me read it. 13 Yes, so I believe that I did the 14 telephone interview to confirm those that 15 were sexually active so that we could send 16 them the questionnaire, those that were 17 sexually active and willing to participate. 18 Q (By Mr. Slater) Based upon the data from the 19 chart review -- well, rephrase. 20 The chart review means that after treating 21 the patients, you went back and looked at those medical 22 charts to take the information from the medical chart 23 and that's how you calculated the numbers ultimately, 24 correct?</p> | <p style="text-align: right;">Page 160</p> <p>1 A In 2008, I believe. 2 Q Am I correct that you presented this abstract 3 at the Society of Gynecologic Surgeons, and subsequent 4 to that your article was published in American Journal 5 of Obstetrics and Gynecology? 6 A Yeah. 7 Q Am I correct about that? 8 A Yes. 9 Q And when you -- rephrase. 10 When you presented this data, did you present 11 it at a meeting to other doctors? 12 A Yes, at the Society of -- 13 Q And when you presented, were -- okay. And 14 when you presented, were you on the stage with several 15 other physicians who were also presenting data and 16 findings about the use of mesh? 17 A Yes. 18 MR. ISMAIL: Restate, please. 19 Q (By Mr. Slater) Do you recall what other 20 physicians were presenting with you during that 21 presentation, who else was on stage with you? 22 A I don't. 23 Q One name of one of the doctors you presented 24 with at SGS?</p> |
| <p style="text-align: right;">Page 159</p> <p>1 A That's part of it, yes. 2 Q In terms of the dyspareunia numbers, that's 3 where you got the data that came to the 16.7 percent 4 de novo dyspareunia rate, correct? 5 A Yes. 6 Q Going by the chart review, tell me if I'm 7 correct, that ultimately there were 57 women who were 8 sexually active at the start, 21 of them preoperatively 9 had dyspareunia, so you excluded them to get down to 36 10 women for evaluation, and six of those 36 women, based 11 on chart review, had de novo dyspareunia, and that told 12 you that it was 16.7 percent, correct? 13 A Yes. 14 Q The article says -- well, let me withdraw 15 that. Let me just figure something out here. 16 MR. SLATER: Okay. If we could, can we 17 mark the abstract for this as the next 18 exhibit, which I guess would be up to 23. 19 (Exhibit 23 marked for identification.) 20 THE WITNESS: Okay. 21 Q (By Mr. Slater) Okay. The abstract was 22 presented where? 23 A At the Society of Gynecologic Surgeons. 24 Q Okay. And when was it presented?</p> | <p style="text-align: right;">Page 161</p> <p>1 A I can't. I don't remember. 2 Q Big day for you, you're a fellow, you're 3 going to present at SGS on a study, I mean, this must 4 have been a big day, right? 5 A It was a big day. 6 Q And you can't remember what other doctors 7 were on the stage with you that day? 8 A No. I was never told that I was going to be 9 on the stage with other doctors. That was a surprise. 10 Q But then you got up there. Were they -- but 11 you were with other doctors on the stage. Were they 12 people that you respected? 13 A I didn't know who they were. 14 Q Your involvement with SGS, was that 15 facilitated at all through Miles Murphy? 16 A No. 17 Q Now, let's look at the abstract of the 18 presentation you made at the Society of Gynecologic 19 Surgeons that we've marked as Exhibit 23. If I'm -- 20 tell me if I'm correct. You based this data on the 21 questionnaires that were filled out by the patients and 22 specifically a validated condition specific sexual 23 function questionnaire known as the PISQ-12; is that 24 correct?</p> |

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| <p style="text-align: right;">Page 162</p> <p>1 A Yes, that's correct.</p> <p>2 Q And it's a validated questionnaire, meaning</p> <p>3 it's accepted in the urogynecologic community that the</p> <p>4 questionnaire questions and the responses that one gets</p> <p>5 to them can be relied on, correct?</p> <p>6 A Yes, that's correct.</p> <p>7 Q And based on the questionnaire responses, you</p> <p>8 calculated a rate of 24 percent de novo dyspareunia,</p> <p>9 correct?</p> <p>10 A Let me look at that.</p> <p>11 Q There in the conclusion, bottom right.</p> <p>12 A It looks like that, yeah.</p> <p>13 Q So that percentage was significantly higher</p> <p>14 than the percentage that you put into your published</p> <p>15 article about this study when you decided to rely on</p> <p>16 the chart review instead, right?</p> <p>17 MR. ISMAIL: Objection to form.</p> <p>18 THE WITNESS: No. What I'm suspecting</p> <p>19 is that -- well, you know, I don't know. Let</p> <p>20 me just look at this quickly.</p> <p>21 MR. SLATER: Let's change --</p> <p>22 MR. ISMAIL: Hold on.</p> <p>23 THE WITNESS: Let me just look at it,</p> <p>24 please. I'm wondering if there may have been</p> | <p style="text-align: right;">Page 164</p> <p>1 abstract was sent and my presentation. I do not</p> <p>2 remember presenting a de novo dyspareunia rate of</p> <p>3 24 percent. So I'm suspecting that the classification</p> <p>4 error was discovered before presentation. So I do not</p> <p>5 think that I presented a dyspareunia rate of 24</p> <p>6 percent.</p> <p>7 Q Doctor, there's no classification error here.</p> <p>8 What are you -- what is a classification error?</p> <p>9 MR. ISMAIL: Objection.</p> <p>10 THE WITNESS: That --</p> <p>11 MR. ISMAIL: Move to strike.</p> <p>12 MR. SLATER: I'll withdraw the question.</p> <p>13 Q (By Mr. Slater) Let me walk you through what</p> <p>14 happened, okay? If you look at your data --</p> <p>15 A You're going to walk me through what</p> <p>16 happened?</p> <p>17 Q Yeah, I'm going to -- yeah, Doctor, I'm going</p> <p>18 to walk you through it.</p> <p>19 A Okay.</p> <p>20 Q When you did -- when you originally did your</p> <p>21 abstract, you based it on the results from the</p> <p>22 questionnaires, correct?</p> <p>23 A I based it on the results from chart review</p> <p>24 and questionnaires and telephone interview, yes.</p> |
| <p style="text-align: right;">Page 163</p> <p>1 a misclassification error, because in the</p> <p>2 actual paper, it says that 129 cases of</p> <p>3 Prolift were performed, and in the abstract,</p> <p>4 it says that 128 Prolift cases were</p> <p>5 performed, and that may have affected that</p> <p>6 number.</p> <p>7 MR. SLATER: Let's change the tape --</p> <p>8 THE VIDEOGRAPHER: We are now going off</p> <p>9 the --</p> <p>10 MR. SLATER: -- because it's running</p> <p>11 out.</p> <p>12 THE VIDEOGRAPHER: We are now going off</p> <p>13 the video record. The time is currently</p> <p>14 3:08 p.m. This is the end of Tape No. 3.</p> <p>15 (Recess taken.)</p> <p>16 THE VIDEOGRAPHER: We are now back on</p> <p>17 the video record with Tape No. 4. The time</p> <p>18 is currently 3:19 p.m.</p> <p>19 Q (By Mr. Slater) Doctor, just to confirm, you</p> <p>20 presented at SGS on your study of Prolift patients from</p> <p>21 your fellowship and reported at that meeting,</p> <p>22 consistent with your abstract, a 24 approximate de novo</p> <p>23 dyspareunia rate, correct?</p> <p>24 A I don't know the time frame of when this</p> | <p style="text-align: right;">Page 165</p> <p>1 Q Well, the data that was reported in the</p> <p>2 abstract, the 24 percent number, that came from the</p> <p>3 result of the questionnaires --</p> <p>4 A That's correct --</p> <p>5 Q -- correct?</p> <p>6 A -- but as I said before, there was 128 cases</p> <p>7 that were evaluated for the abstract. In the paper and</p> <p>8 in the presentation, there were 129 cases. So we must</p> <p>9 have missed a patient. That's why the number is</p> <p>10 different.</p> <p>11 Q I'm going to walk you through some numbers,</p> <p>12 and you're going to tell me if I have the numbers</p> <p>13 right, okay?</p> <p>14 A Okay. Are you looking at the abstract?</p> <p>15 Q I'm looking at both. I've been through them</p> <p>16 both pretty thoroughly.</p> <p>17 A Okay.</p> <p>18 Q Fifty-six women agreed originally to fill out</p> <p>19 the questionnaires. Eventually 41 of those 56 women</p> <p>20 responded to the questionnaires, correct?</p> <p>21 A I have to -- are you looking at the abstract</p> <p>22 or the paper? At some point, the numbers changed. So</p> <p>23 I need to know which one you're looking at.</p> <p>24 Q Let me see. Okay. Look at the article.</p> |

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| <p style="text-align: right;">Page 166</p> <p>1 A Okay.</p> <p>2 Q We can look at your published article.</p> <p>3 A Okay.</p> <p>4 Q The right-hand column of the "Results" column</p> <p>5 on page E2.</p> <p>6 A Uh-huh.</p> <p>7 Q And what it says here halfway down is,</p> <p>8 "Fifty-six of the sexually active patients agreed to</p> <p>9 answer questionnaires. The response rate was 73</p> <p>10 percent, meaning 41 women actually responded to the</p> <p>11 questionnaires," correct?</p> <p>12 A Uh-huh.</p> <p>13 Q It says, "Twenty of the 41 sexually active</p> <p>14 patients who responded to the questionnaires described</p> <p>15 themselves as pain-free."</p> <p>16 A Okay.</p> <p>17 Q And then if you go further down, we know that</p> <p>18 there's 21 patients who reported dyspareunia, correct?</p> <p>19 A That's correct.</p> <p>20 Q Okay. Now, if you go further to the bottom</p> <p>21 of the page, of the 21 patients who reported</p> <p>22 dyspareunia, 38 percent, 8 out of 21 -- it goes</p> <p>23 through -- describe their pain as mild, 8 of 21 is</p> <p>24 moderate, and 5 of 21 is severe. Do you see that?</p> | <p style="text-align: right;">Page 168</p> <p>1 A No. The way that I calculated it is</p> <p>2 what's --</p> <p>3 Q Wait, let me withdraw it --</p> <p>4 A -- the summary numbers.</p> <p>5 Q -- because I just missed -- Doctor, Doctor,</p> <p>6 Doctor, I misspoke, so I want to just get a clean</p> <p>7 question, okay?</p> <p>8 A Okay.</p> <p>9 Q Here's a calculation. Twenty-one women had</p> <p>10 dyspareunia postoperatively, eight of whom also had it</p> <p>11 at baseline preoperatively, correct?</p> <p>12 A Let me just see that.</p> <p>13 MR. ISMAIL: Objection to form.</p> <p>14 MR. SLATER: Okay.</p> <p>15 THE WITNESS: Yeah, I think that's</p> <p>16 correct. I mean, I go through a bunch of</p> <p>17 numbers here. The bottom line is that there</p> <p>18 were --</p> <p>19 MR. SLATER: Doctor, I'm going through</p> <p>20 this the way I'm going through it. I don't</p> <p>21 want to know your bottom line right now.</p> <p>22 THE WITNESS: Okay.</p> <p>23 MR. ISMAIL: Move to strike.</p> <p>24 Q (By Mr. Slater) Okay. So let's do this. We</p> |
| <p style="text-align: right;">Page 167</p> <p>1 A I do.</p> <p>2 Q Okay. Now, on page E3, at the top of the</p> <p>3 first paragraph, it says, "Eight respondents reported</p> <p>4 dyspareunia at baseline, leaving 13 with de novo</p> <p>5 dyspareunia by retrospective self-report." That would</p> <p>6 be the questionnaire, correct?</p> <p>7 A Yes, that's what it says, uh-huh.</p> <p>8 Q Reported dyspareunia, eight of which said</p> <p>9 they had it preoperatively, correct?</p> <p>10 A Eight said that they had dyspareunia at</p> <p>11 baseline, which would mean preoperatively, yes.</p> <p>12 Q Okay. And since you're trying to evaluate</p> <p>13 de novo dyspareunia, you then subtract the eight who</p> <p>14 had it preoperatively from the 21, correct?</p> <p>15 A That's correct.</p> <p>16 Q And what you also do when you're trying to</p> <p>17 get a percentage is you then also subtract eight from</p> <p>18 the 41 so that your numerator and denominator will be</p> <p>19 consistent, so you have -- you have 13 women with</p> <p>20 de novo dyspareunia out of a set of 33 women. That</p> <p>21 becomes how you would calculate this, correct?</p> <p>22 MR. ISMAIL: Objection to form.</p> <p>23 Q (By Mr. Slater) Eight out of -- eight out of</p> <p>24 33, correct?</p> | <p style="text-align: right;">Page 169</p> <p>1 have a set of 41 women, correct, 41 women responded to</p> <p>2 the questionnaires, right?</p> <p>3 A I believe that's correct, yes.</p> <p>4 Q The prior page, E2.</p> <p>5 A Yes.</p> <p>6 Q Okay. Eight of those women preoperatively</p> <p>7 had dyspareunia, so you're going to drop them out of</p> <p>8 the set because you're not looking to measure women</p> <p>9 that already had dyspareunia, you want to know women</p> <p>10 who were pain-free at baseline, correct?</p> <p>11 A Correct.</p> <p>12 Q Forty-one, which is the denominator, you</p> <p>13 would subtract those eight out and that would be</p> <p>14 33 --</p> <p>15 A But where are you seeing the eight?</p> <p>16 Q -- and then 21 --</p> <p>17 A Where did the eight come from?</p> <p>18 Q On page E3, the first full paragraph in the</p> <p>19 left column, eight respondents reported dyspareunia at</p> <p>20 baseline, leaving 13 with de novo dyspareunia.</p> <p>21 A By retrospective self-report.</p> <p>22 Q The questionnaire we're talking about, right?</p> <p>23 A That's correct, but the questionnaire wasn't</p> <p>24 the only thing we used. We were also using chart</p> |

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| <p style="text-align: right;">Page 170</p> <p>1 review. Patients sometimes --</p> <p>2 Q Doctor, I'm only doing -- holy moly. Doctor,</p> <p>3 I'm not asking about --</p> <p>4 A I've outlined in this --</p> <p>5 Q I'm calculating -- Doctor, I'm calculating</p> <p>6 the results based on the questionnaire right now.</p> <p>7 A Okay. The questionnaire was not the only --</p> <p>8 Q And then we'll talk through all the different</p> <p>9 statistics.</p> <p>10 A The questionnaire was not the only thing we</p> <p>11 used.</p> <p>12 Q It doesn't matter. I realize that, Doctor.</p> <p>13 Do you understand that one of the things I can do if</p> <p>14 you testify in this case in a public courtroom is</p> <p>15 attack the validity of how you came to the numbers you</p> <p>16 publicly recorded?</p> <p>17 A I understand that.</p> <p>18 Q Well, we're going through that process right</p> <p>19 now, with all due respect.</p> <p>20 A Okay.</p> <p>21 Q So there were 41 women total that responded,</p> <p>22 eight of them had preoperative dyspareunia, right?</p> <p>23 A I think that's correct. I have to go through</p> <p>24 and write this all out.</p> | <p style="text-align: right;">Page 172</p> <p>1 like I said, I have to --</p> <p>2 Q Okay.</p> <p>3 A -- look through all of this to make sure that</p> <p>4 the numbers that you're saying are right. What I</p> <p>5 published is right.</p> <p>6 Q Doctor, I'm accepting your numbers.</p> <p>7 A Okay.</p> <p>8 Q I'm accepting the number of eight women,</p> <p>9 okay, so -- and I think I understand what you just</p> <p>10 said. In order to determine the preoperative</p> <p>11 dyspareunia rate, you used the questionnaires and you</p> <p>12 cross-checked with the chart review?</p> <p>13 A Exactly.</p> <p>14 Q Okay. So the number of eight you were able</p> <p>15 to double-check and get yourself more confidence and</p> <p>16 you were able to say eight women had preoperative</p> <p>17 dyspareunia, correct?</p> <p>18 MR. ISMAIL: Objection to form.</p> <p>19 THE WITNESS: Of the patients that</p> <p>20 responded by self-report, yes.</p> <p>21 Q (By Mr. Slater) Okay. So all I want to do</p> <p>22 is tell me if these numbers are accurate. You have a</p> <p>23 denominator of 41 women and a -- and a numerator of 21,</p> <p>24 meaning 21 out of 41 women reported dyspareunia on the</p> |
| <p style="text-align: right;">Page 171</p> <p>1 Q Right there, the full -- first full paragraph</p> <p>2 on page E3. I've shown it to you three times.</p> <p>3 A It says --</p> <p>4 Q Eight women had preoperative dyspareunia.</p> <p>5 A That's correct.</p> <p>6 Q And we've already established that post --</p> <p>7 when they filled out the questionnaires, 21 women</p> <p>8 reported dyspareunia, correct?</p> <p>9 A Twenty-one patients reported dyspareunia,</p> <p>10 that's right.</p> <p>11 Q Okay. So if you want to only evaluate</p> <p>12 de novo dyspareunia, you subtract eight from the</p> <p>13 numerator of 21 and you subtract eight from the</p> <p>14 denominator of 41, correct, so you're excluding those</p> <p>15 eight women from your calculation, correct? That's a</p> <p>16 way to do this, right?</p> <p>17 A Like I said, we did not determine who had</p> <p>18 dyspareunia at baseline and who had dyspareunia after</p> <p>19 surgery solely based on the questionnaires. We also</p> <p>20 went through chart review. Patients sometimes don't</p> <p>21 recollect whether or not they had dyspareunia before</p> <p>22 surgery or not. If they documented dyspareunia before</p> <p>23 surgery and that was discordant with the</p> <p>24 questionnaires, then we would defer to the chart. So</p> | <p style="text-align: right;">Page 173</p> <p>1 questionnaires, correct?</p> <p>2 A Are you talking about preop dyspareunia or</p> <p>3 postop dyspareunia?</p> <p>4 Q Postoperatively, postop on the</p> <p>5 questionnaires.</p> <p>6 A You know what, let me look at something else</p> <p>7 that I have here.</p> <p>8 Q It's right on page E2 --</p> <p>9 A Uh-huh.</p> <p>10 Q -- in the bottom right-hand corner paragraph</p> <p>11 where it says, "Fifty-six of the sexually active</p> <p>12 patients agreed to answer questionnaires. The response</p> <p>13 rate was 73 percent, meaning 41 responded."</p> <p>14 A Uh-huh.</p> <p>15 Q So we know we have a set of 41 women that</p> <p>16 responded.</p> <p>17 A Okay.</p> <p>18 Q Then it says, "Twenty of the 41 sexually</p> <p>19 active patients who responded to the questionnaires</p> <p>20 describe themselves as pain-free." So 20 out of 41 had</p> <p>21 no dyspareunia, and that leaves 21 at the bottom of the</p> <p>22 page right there --</p> <p>23 A Uh-huh.</p> <p>24 Q -- who reported dyspareunia?</p> |

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| <p style="text-align: right;">Page 174</p> <p>1 A That's correct.</p> <p>2 Q So 21 out of 41 reported dyspareunia on the</p> <p>3 questionnaires, correct?</p> <p>4 A That's correct.</p> <p>5 Q Okay. If you want to then eliminate the</p> <p>6 women who had dyspareunia at baseline because you're</p> <p>7 trying to evaluate preoperative -- rephrase.</p> <p>8 If you're trying to eliminate the women who</p> <p>9 had dyspareunia at baseline because you're trying to</p> <p>10 study de novo dyspareunia, you would subtract those</p> <p>11 eight women from both the numerator and the</p> <p>12 denominator, right?</p> <p>13 A That's correct.</p> <p>14 Q Right, so it would be -- on the numerator, 21</p> <p>15 minus 8 would be 13, and 41 minus 8 would be 33,</p> <p>16 correct?</p> <p>17 A You said 18 and 33?</p> <p>18 Q Thirteen and thirty-three.</p> <p>19 MR. ISMAIL: Restate.</p> <p>20 Q (By Mr. Slater) Twenty-one minus 8 equals 13</p> <p>21 and 41 minus 8 equals 33, correct?</p> <p>22 A I think that's correct. Math is not my</p> <p>23 strong point.</p> <p>24 Q Okay. I took out my calculator on my handy</p> | <p style="text-align: right;">Page 176</p> <p>1 dyspareunia rate of 24 percent is a high rate, correct?</p> <p>2 A That's correct.</p> <p>3 Q When you published the article, which we've</p> <p>4 marked as Exhibit 3, if you look at the last page of</p> <p>5 your article, you made a finding in the bottom left</p> <p>6 column over to the center column --</p> <p>7 A On what page again?</p> <p>8 Q -- that --</p> <p>9 A I'm sorry.</p> <p>10 Q Page E5.</p> <p>11 A Okay.</p> <p>12 Q You made a finding -- in the bottom of the</p> <p>13 left column and the bottom of the center column, you</p> <p>14 talk about it -- that you decided chart review provided</p> <p>15 a more valid calculation rather than a retrospective</p> <p>16 questionnaire assessment. That was the decision you</p> <p>17 made, so you decided to rely on the chart review</p> <p>18 without reference to the questionnaires in reporting</p> <p>19 16.7 percent, correct?</p> <p>20 A Let me just read this, please. Okay, yes, I</p> <p>21 did conclude that.</p> <p>22 Q If you had reported the de novo dyspareunia</p> <p>23 rate that the patients reported on the questionnaires,</p> <p>24 while using the chart review as a check on the</p> |
| <p style="text-align: right;">Page 175</p> <p>1 iPhone and divided 13 divided by 33 to see the</p> <p>2 percentage of de novo dyspareunia, and I came up with</p> <p>3 39.4 percent based on the questionnaires and using the</p> <p>4 chart review to establish who had dyspareunia at</p> <p>5 baseline.</p> <p>6 MR. ISMAIL: Objection.</p> <p>7 Q (By Mr. Slater) Will you accept 39.4 percent</p> <p>8 as an accurate calculation?</p> <p>9 MR. ISMAIL: Objection to form.</p> <p>10 THE WITNESS: No, that's what I'm</p> <p>11 saying, we didn't use just the</p> <p>12 questionnaires. I can't agree --</p> <p>13 Q (By Mr. Slater) Thirteen divided by 33 -- 13</p> <p>14 divided by 33 is 39.4 percent, will you agree to that</p> <p>15 percentage --</p> <p>16 A Yes.</p> <p>17 Q -- that the calculation is accurate? Okay.</p> <p>18 Okay. Now, what you did, as well, is you</p> <p>19 then went to -- rephrase.</p> <p>20 In the abstract, you reported 24 percent</p> <p>21 de novo dyspareunia rate, which you described as a high</p> <p>22 rate in the abstract, correct?</p> <p>23 A That's correct.</p> <p>24 Q And you would agree with me that a</p> | <p style="text-align: right;">Page 177</p> <p>1 preoperative dyspareunia that was actually reported</p> <p>2 when the patients came in, the percentage is what I</p> <p>3 gave you, 39.4 percent, correct?</p> <p>4 A Ask that question again.</p> <p>5 Q Decided to report in your published article</p> <p>6 the rate of de novo dyspareunia based on the results of</p> <p>7 the questionnaires while cross-checking with the chart</p> <p>8 to determine the preoperative -- the preoperative</p> <p>9 dyspareunia rate, we've gone through it, the rate would</p> <p>10 have been 39.4 percent, correct?</p> <p>11 MR. ISMAIL: Objection to form.</p> <p>12 THE WITNESS: I believe that's</p> <p>13 incorrect. From what I'm understanding from</p> <p>14 what I wrote here is that there was a</p> <p>15 discrepancy between what we found with chart</p> <p>16 review versus what we found with the</p> <p>17 questionnaires. And there were six patients</p> <p>18 who reported de novo dyspareunia by chart</p> <p>19 review on telephone interview and then 13 by</p> <p>20 questionnaire. And so we decided that the</p> <p>21 most objective evaluation was chart review</p> <p>22 because it was an objective assessment and we</p> <p>23 weren't asking people to recollect.</p> <p>24 Q (By Mr. Slater) Doctor, the charts were</p> |

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| <p style="text-align: right;">Page 178</p> <p>1 filled out by the doctors who were treating the</p> <p>2 patients, right?</p> <p>3 A No, that part of the chart was filled out by</p> <p>4 the patient.</p> <p>5 Q I'm talking about chart review. You're</p> <p>6 saying that there were independent questionnaires in</p> <p>7 the medical chart?</p> <p>8 A Yes.</p> <p>9 Q These aren't medical charts that the patients</p> <p>10 were having their results tracked in?</p> <p>11 A We have a patient questionnaire that is part</p> <p>12 of the medical record.</p> <p>13 Q And that questionnaire was filled out at</p> <p>14 baseline in order for them to document their</p> <p>15 preoperative condition, correct?</p> <p>16 A Correct.</p> <p>17 Q Right?</p> <p>18 MR. ISMAIL: Restate, please.</p> <p>19 Q (By Mr. Slater) That is what you're</p> <p>20 referring to by what the patients filled out in the</p> <p>21 chart, correct?</p> <p>22 A Correct.</p> <p>23 Q The rest of the medical chart is the findings</p> <p>24 of the doctors and what's recorded in the medical chart</p> | <p style="text-align: right;">Page 180</p> <p>1 questionnaires that were sent to patients and filled</p> <p>2 out by 41 women, correct?</p> <p>3 MR. ISMAIL: Objection to form.</p> <p>4 THE WITNESS: No, we didn't disregard</p> <p>5 them. But when it came to classifying</p> <p>6 patients as having de novo dyspareunia, we</p> <p>7 used their baseline complaint of, you know,</p> <p>8 whether or not they had dyspareunia or not,</p> <p>9 versus a questionnaire that asked them to</p> <p>10 recollect whether or not they had dyspareunia</p> <p>11 or not before surgery.</p> <p>12 Q (By Mr. Slater) With regard to whether they</p> <p>13 had dyspareunia postoperatively, you decided to rely on</p> <p>14 the chart and disregard what they wrote in the</p> <p>15 validated questionnaires, correct?</p> <p>16 MR. ISMAIL: I think you just stated</p> <p>17 that backwards. Try that again.</p> <p>18 Q (By Mr. Slater) When you then reported in</p> <p>19 your published article and came to your percentage of</p> <p>20 16.7 percent, that was based on the complaints of</p> <p>21 de novo dyspareunia in the chart and it disregarded</p> <p>22 what was reported in the validated questionnaire,</p> <p>23 correct?</p> <p>24 MR. ISMAIL: Objection to form.</p> |
| <p style="text-align: right;">Page 179</p> <p>1 while they're patients, correct?</p> <p>2 A Correct.</p> <p>3 Q And the number of women who had dyspareunia</p> <p>4 following the surgery based on chart review was what</p> <p>5 was documented in the chart by the doctors who were</p> <p>6 treating the patients, correct?</p> <p>7 MR. ISMAIL: Objection to form.</p> <p>8 THE WITNESS: Not completely. There</p> <p>9 are -- when we have -- see our patients back,</p> <p>10 they fill out a short patient questionnaire</p> <p>11 as well. So there's patient -- what do you</p> <p>12 call it -- patient information that the</p> <p>13 patient responds to in addition to our</p> <p>14 findings as well. So when patients come for</p> <p>15 an office visit, they're usually given a</p> <p>16 small -- because it's -- it was an academic</p> <p>17 practice, so we tried to incorporate</p> <p>18 standardized questionnaires to be able to do</p> <p>19 research. So patients gave us subjective</p> <p>20 assessments at each -- at each -- at each</p> <p>21 visit.</p> <p>22 Q (By Mr. Slater) Ultimately you made a</p> <p>23 decision that you were going to rely on the chart</p> <p>24 review and you were going to disregard the validated</p> | <p style="text-align: right;">Page 181</p> <p>1 THE WITNESS: No. We only deferred to</p> <p>2 the chart if there was a discrepancy between</p> <p>3 the -- in the information.</p> <p>4 Q (By Mr. Slater) Your article and it seems to</p> <p>5 be saying to me that you relied on the chart review for</p> <p>6 these de novo dyspareunia numbers. That's what it says</p> <p>7 here in the bottom of the page on E5.</p> <p>8 A The bottom of the page where?</p> <p>9 Q In fact -- yeah, the bottom of the left</p> <p>10 column, "We therefore calculated the de novo</p> <p>11 dyspareunia rate by chart review, which allowed an</p> <p>12 objective preop and postop assessment of all sexually</p> <p>13 active patients."</p> <p>14 A Right, and we explained --</p> <p>15 Q That's what you wrote in the article.</p> <p>16 A That's what I just said. If there was a</p> <p>17 discrepancy, we relied on the chart review because</p> <p>18 that's a more objective assessment that is not subject</p> <p>19 to recall bias, as I describe in that paragraph.</p> <p>20 Q Where does it say, "If there was a</p> <p>21 discrepancy, we relied on the chart review; and if</p> <p>22 there wasn't a discrepancy, we relied on the</p> <p>23 questionnaire"?</p> <p>24 A It says, "Interestingly, assessing</p> |

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| <p style="text-align: right;">Page 182</p> <p>1 dyspareunia by two different methods led to two 2 different results." That means there's a discrepancy. 3 There were six patients who reported de novo 4 dyspareunia by chart review in telephone interview and 5 13 by questionnaire. So that's the discrepancy. 6 The -- 7 Q Okay, I got what you're saying. I got it. 8 Okay. 9 A Yeah. 10 Q The number -- the numbers were different and 11 you chose the lower numbers ultimately, right? 12 MR. ISMAIL: Objection to form. 13 THE WITNESS: We chose the numbers that 14 we thought were more objective. 15 Q (By Mr. Slater) Those happened to be the 16 lower numbers, right? 17 A They happened to be lower. 18 Q And, in fact, just to understand where the 19 24 percent came from, just below what you just read, 20 you indicated that 5 percent of patients who reported 21 immediate postop dyspareunia reported that it resolved 22 at the time of chart review. 23 When I did these calculations and it was 13 24 over 33, you cut those out of the -- of the numerator</p> | <p style="text-align: right;">Page 184</p> <p>1 moment ago that 17 percent is high, right? 2 A That's correct. 3 Q Okay. So Prolift patients, based on your own 4 study, have a high postoperative de novo dyspareunia 5 rate, correct? 6 MR. ISMAIL: Objection to form. 7 THE WITNESS: That's incorrect. 8 MR. SLATER: Okay. We'll try it in 9 court, then, and we'll see how it goes. 10 THE WITNESS: Let's go. 11 MR. SLATER: Okay. 12 THE WITNESS: I mean, this is 2015. 13 This was in 2008. We've learned a -- 14 MR. SLATER: Okay. 15 THE WITNESS: We've learned a lot since 16 then. 17 MR. SLATER: We have, except you don't 18 know why the Prolift isn't being marketed 19 anymore, right? 20 THE WITNESS: That's correct, I do not. 21 It should be. 22 Q (By Mr. Slater) What if the Prolift wasn't 23 being marketed because internally they were concerned 24 about the dyspareunia rate, would that matter to you?</p> |
| <p style="text-align: right;">Page 183</p> <p>1 so that it was 8 out of 33, which comes to the 24 2 percent. That's how you got to 24 percent, right? You 3 actually cut out the people whose complaints resolved 4 in the short term, right? 5 A I don't know. I'd have to look at it, but 6 I'll take your word for it. I don't think it matters. 7 Twenty-four percent -- if you want to say 24 percent, 8 that's fine. Nobody was impressed by a low number when 9 I presented this paper. A dyspareunia rate of 17 10 percent is high -- is just as high as 24 percent, so if 11 you want to say it's 24 percent, that's fine. The 12 dyspareunia rate -- 13 Q Dyspareunia -- 14 A -- was high. It was high in this study. 15 Q Dyspareunia -- you would agree with me 16 postoperative dyspareunia after Prolift surgery is 17 high; that's documented in the literature, including 18 your own article, correct? 19 MR. ISMAIL: Objection to form. 20 THE WITNESS: That is not correct. 21 Q (By Mr. Slater) Well, in your abstract, you 22 called it a high de novo dyspareunia rate, right? 23 A That's correct, 24 percent is high. 24 Q You just said it -- and you just said a</p> | <p style="text-align: right;">Page 185</p> <p>1 MR. ISMAIL: Objection to form. 2 THE WITNESS: No. 3 Q (By Mr. Slater) What if the Prolift wasn't 4 being marketed because Ethicon was worried that so many 5 women were being harmed that they couldn't ethically 6 leave it on the market anymore, would that be 7 significant to you? 8 MR. ISMAIL: Objection to form. 9 THE WITNESS: No. 10 Q (By Mr. Slater) What if one of the top 11 medical directors in all of Johnson & Johnson said that 12 a reasonable argument could be made that the Prolift 13 should not have been marketed based on the severe 14 complications that they're aware of, would that be 15 significant to you? 16 MR. ISMAIL: Objection to form. 17 THE WITNESS: No. 18 MR. SLATER: Let's pull out Exhibit 4, 19 if we could, Jonathan, 4 and 5. 20 (Discussion off the written record.) 21 MR. SLATER: March of 2008. 22 THE WITNESS: Yes. 23 Q (By Mr. Slater) Do you see that? 24 A I do.</p> |

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| <p style="text-align: right;">Page 186</p> <p>1 Q Okay. Let's look at the first email in the 2 middle of the page. Someone -- a Mel Seitz wrote an 3 email to you. Do you remember who Mel Seitz is? 4 A I don't. 5 Q Mel Seitz wrote to you and said, "Hi, 6 Dr. Lowman. It was great talking with you today. You 7 are a class act. Here is the info on our upcoming 8 cadaver lab that I mentioned today. Apparently they 9 don't have the faculty nailed down yet, but I am 10 assuming that Vince Lucente and/or Jim Raders will be 11 involved. If you are able to attend, let me know and I 12 will get you the details as they are made available. I 13 would love to get anything you are able to send me 14 regarding your upcoming presentation in Savannah. Good 15 luck on the presentation. Have a great weekend. 16 Mel Seitz." Do you see that? 17 A I do. 18 Q Now, the presentation in Savannah, what 19 presentation was that? 20 A The one we just discussed. 21 Q That was the SGS presentation? 22 A Yes. 23 Q You wrote back to Mel Seitz on March 12, 24 2008. "It was great talking with you, Mel. I have</p> | <p style="text-align: right;">Page 188</p> <p>1 it with Ethicon; and as you can see, they were -- they 2 were talking about it internally and getting ready for 3 that meeting on their end. Do you see that? 4 A I do. 5 Q Why did you send your presentation to Ethicon 6 in advance of the presentation? 7 A Because he asked for it. 8 Q That's it? I mean, no matter what they asked 9 you for, you would send them? 10 A No. I didn't see any problem with sending 11 the presentation to them. 12 Q Do you remember sending the presentation to 13 Ethicon? 14 A I don't remember that, but I don't see -- I 15 wouldn't see a problem doing that. So if this email 16 is, you know, real, I assume I did that. 17 Q Exhibit 5, do you have that in front of 18 you? That's the -- 19 A Yes, I do. 20 Q -- the presentation you sent over to Ethicon. 21 A Uh-huh. 22 Q And if you turn forward, the -- well, 23 rephrase. 24 This is the rough draft of your presentation</p> |
| <p style="text-align: right;">Page 187</p> <p>1 attached my abstract and a rough draft of my 2 presentation. Won't be able to attend the cadaver lab, 3 but keep me posted on upcoming events." You see what 4 you wrote there? 5 A I do. 6 Q So you sent Mel Seitz your abstract and a 7 rough draft of your presentation, right? 8 A It looks like I did, uh-huh. 9 Q So you felt it was appropriate to share a 10 presentation you were going to make at a medical 11 meeting of a medical society with an Ethicon corporate 12 representative, someone who worked for Ethicon, you 13 felt it was appropriate to share your presentation with 14 him in advance, correct? 15 A That's correct. 16 Q That's what it says here, right? 17 A That's correct. 18 Q Jon Salyer, "Hey Scott. Here is the 19 PowerPoint that Dr. Joye Lowman, Doug Hale's senior 20 fellow, is presenting next month in Savannah on Prolift 21 and dyspareunia. Let me know if you have any 22 questions. Mel." Do you see that? 23 A I do. 24 Q So you sent this presentation over and shared</p> | <p style="text-align: right;">Page 189</p> <p>1 that you shared with Ethicon in March of 2008, correct? 2 MR. ISMAIL: Objection to form. 3 THE WITNESS: I'm sorry, could you ask 4 the question again? 5 Q (By Mr. Slater) The way this was produced to 6 us by Ethicon -- 7 A Uh-huh. 8 Q -- this was the attachment to the email that 9 is apparently the rough draft of your presentation. 10 And the Bates number of it, for the record, is 11 ETH.MESH.00006815. That's the placeholder Bates number 12 for this presentation. 13 Do you recognize this as the PowerPoint for 14 the presentation you gave to SGS on your study of the 15 Prolift and dyspareunia? 16 MR. ISMAIL: Objection to form. 17 THE WITNESS: This looks like the data 18 that I would have presented. 19 Q (By Mr. Slater) And if you turn forward 20 about five pages, there's a "Methods" section. 21 A Uh-huh, yes, I'm here. 22 Q And you indicate on that that de novo 23 dyspareunia rate was calculated by chart review. Do 24 you see that?</p> |

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| <p style="text-align: right;">Page 190</p> <p>1 A Yes.</p> <p>2 Q And then you say that, "Patient satisfaction</p> <p>3 was assessed anonymously with a seven-item dyspareunia</p> <p>4 specific questionnaire." I want to stop there.</p> <p>5 A Okay.</p> <p>6 Q That questionnaire, the seven-item</p> <p>7 questionnaire, was not a validated questionnaire,</p> <p>8 correct?</p> <p>9 A That's correct.</p> <p>10 Q Patient satisfaction, you say here, was also</p> <p>11 assessed by a validated condition-specific</p> <p>12 questionnaire, the PISQ-12, right?</p> <p>13 A Yes.</p> <p>14 Q What you don't disclose is that de novo</p> <p>15 dyspareunia was also assessed by the PISQ-12. You</p> <p>16 don't say that, correct?</p> <p>17 A I don't see that stated here, no.</p> <p>18 Q And then on the next page, you go through the</p> <p>19 results.</p> <p>20 A Uh-huh.</p> <p>21 Q And you have the dyspareunia rate of 16.7</p> <p>22 percent, which is based on the chart review, correct?</p> <p>23 A That's correct.</p> <p>24 Q And that's what you presented to SGS, the</p> | <p style="text-align: right;">Page 192</p> <p>1 mesh augmentation that are less common are mesh</p> <p>2 extrusion and mesh contraction." Do you see that?</p> <p>3 A That's correct.</p> <p>4 Q Do you know what the mesh contraction rate is</p> <p>5 that was found by the French doctors who developed the</p> <p>6 Prolift, in their studies?</p> <p>7 A I don't. Actually, I don't know if you're</p> <p>8 referring to the original studies or if you're</p> <p>9 referring to their meta-analysis. I am familiar with</p> <p>10 the data from the meta-analysis.</p> <p>11 Q You think that -- what meta-analysis? You're</p> <p>12 saying that the French doctors who developed the</p> <p>13 Prolift did a meta-analysis?</p> <p>14 A Jacquetin and Cosson, yes.</p> <p>15 Q The meta-analysis of what?</p> <p>16 A Of outcomes with vaginal mesh procedures.</p> <p>17 Q Limited to the Prolift?</p> <p>18 A They did a subanalysis with Prolifts, yes.</p> <p>19 Q That's -- what I'm asking is this: Are you</p> <p>20 familiar with the rates of contraction that were</p> <p>21 reported by the French doctors who developed the</p> <p>22 Prolift in their various studies?</p> <p>23 MR. ISMAIL: Objection to form.</p> <p>24 THE WITNESS: Yeah.</p> |
| <p style="text-align: right;">Page 191</p> <p>1 16.7 percent, correct?</p> <p>2 A Yes.</p> <p>3 Q And that's what you published in the American</p> <p>4 Journal of Obstetrics and Gynecology, 16.7 percent,</p> <p>5 correct?</p> <p>6 A That's correct.</p> <p>7 Q Okay, let's go back to your report now.</p> <p>8 A Okay.</p> <p>9 Q And let's turn -- let's figure out where we</p> <p>10 want to pick up. Give me one second. See what I've</p> <p>11 covered.</p> <p>12 Okay, I have one question before I get into</p> <p>13 this. You'll agree with me that abdominal</p> <p>14 sacrocolpopexy is the gold standard treatment for the</p> <p>15 treatment of prolapse, correct?</p> <p>16 A For the treatment of apical prolapse, yes.</p> <p>17 Q I'm just flipping through your report. Give</p> <p>18 me a second. I'm trying to shorten things here.</p> <p>19 A Okay.</p> <p>20 Q Okay, let's turn to page 13, if you could.</p> <p>21 A Okay.</p> <p>22 Q On page 13, there's a paragraph that starts</p> <p>23 in the middle of the page, and if you read down,</p> <p>24 there's a list, it says, "Other risks associated with</p> | <p style="text-align: right;">Page 193</p> <p>1 Q (By Mr. Slater) For example, are you aware</p> <p>2 they reported 17 percent shrinkage or contraction with</p> <p>3 their initial sets of Prolift patients?</p> <p>4 A I don't know what they reported with their</p> <p>5 initial sets of Prolift patients, no.</p> <p>6 Q You talk a lot in your report about the fact</p> <p>7 that one can get dyspareunia after Prolift surgery and</p> <p>8 one can have dyspareunia after a native tissue repair</p> <p>9 with sutures. You talk about that in your report,</p> <p>10 right?</p> <p>11 A Yes.</p> <p>12 Q If one has dyspareunia after a Prolift</p> <p>13 surgery and it's related to the mesh, the cause of that</p> <p>14 dyspareunia is different than what the cause would be</p> <p>15 with a nonmesh suture procedure because there would be</p> <p>16 no mesh there; would you agree with that?</p> <p>17 MR. ISMAIL: Objection to form.</p> <p>18 THE WITNESS: If the cause of -- could</p> <p>19 you restate the question, please? I'm sorry.</p> <p>20 MR. SLATER: Sure.</p> <p>21 Q (By Mr. Slater) If somebody has a Prolift</p> <p>22 surgery and has dyspareunia after it, related to the</p> <p>23 Prolift mesh --</p> <p>24 A Uh-huh.</p> |

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| <p style="text-align: right;">Page 194</p> <p>1 Q -- then by definition the cause of that</p> <p>2 dyspareunia would be different than in the case of a</p> <p>3 suture repair because the suture repair does not have</p> <p>4 mesh, correct?</p> <p>5 MR. ISMAIL: Objection to form.</p> <p>6 THE WITNESS: I think that's correct.</p> <p>7 MR. SLATER: Okay.</p> <p>8 Q (By Mr. Slater) The treatment of dyspareunia</p> <p>9 caused by Prolift mesh is different very often from the</p> <p>10 treatment of dyspareunia where there's no mesh</p> <p>11 involved, correct?</p> <p>12 A Not necessarily, no.</p> <p>13 Q Sometimes the treatment is different, for</p> <p>14 example, if mesh has to be removed or revised, correct?</p> <p>15 A If mesh has to be removed or revised, that's</p> <p>16 obviously different than a -- than what you would do</p> <p>17 with a traditional repair where there's no mesh, yeah.</p> <p>18 Q Ms. Hammons did not have recurrent prolapse</p> <p>19 at the time that Dr. Baker put the Prolift in, correct?</p> <p>20 MR. ISMAIL: Objection to form.</p> <p>21 THE WITNESS: Not that I'm aware of.</p> <p>22 Q (By Mr. Slater) The operation by Dr. Baker</p> <p>23 to place the Prolift was Ms. Hammons' primary prolapse</p> <p>24 repair, her first one, correct?</p> | <p style="text-align: right;">Page 196</p> <p>1 her that she has had pelvic pain and dyspareunia after</p> <p>2 the Prolift surgery?</p> <p>3 MR. ISMAIL: Objection to form.</p> <p>4 THE WITNESS: I accept that.</p> <p>5 Q (By Mr. Slater) Okay. I want to ask you</p> <p>6 about the Altman study. Can you hear me? I'm going to</p> <p>7 ask you about the Altman study from 2011, the one</p> <p>8 published in the New England Journal of Medicine. You</p> <p>9 talk about that study quite a bit in your report,</p> <p>10 correct?</p> <p>11 A I do.</p> <p>12 Q That study and the results of that study are</p> <p>13 very important to you in forming your opinions in this</p> <p>14 case; is that true?</p> <p>15 A That's true.</p> <p>16 Q Do you consider the Altman study to basically</p> <p>17 be the landmark study with regard to the Prolift?</p> <p>18 MR. ISMAIL: Objection to form.</p> <p>19 THE WITNESS: I consider it to be one of</p> <p>20 the landmark studies, not just with regard to</p> <p>21 the Prolift, but with pelvic organ prolapse</p> <p>22 repair, period.</p> <p>23 Q (By Mr. Slater) Have you seen -- well,</p> <p>24 rephrase.</p> |
| <p style="text-align: right;">Page 195</p> <p>1 A That's correct.</p> <p>2 Q Ms. Hammons was not complaining of any pelvic</p> <p>3 pain or dyspareunia at the time that she had the</p> <p>4 Prolift placed in her body, correct?</p> <p>5 A She was not complaining of that to Dr. Baker,</p> <p>6 that's correct.</p> <p>7 Q Well, when you say she wasn't complaining to</p> <p>8 Dr. Baker, are you contending that she had pelvic pain</p> <p>9 or dyspareunia before the Prolift was placed?</p> <p>10 A No, I'm not. I'm just saying that what I</p> <p>11 have to go on is what she reported to Dr. Baker.</p> <p>12 Q And you have no reason to believe that</p> <p>13 Patricia Hammons had pelvic pain or dyspareunia before</p> <p>14 the Prolift was placed, correct?</p> <p>15 A That's correct.</p> <p>16 Q Report that she has pelvic pain and</p> <p>17 dyspareunia after the Prolift?</p> <p>18 A You -- I missed half of that question.</p> <p>19 Q Opinions in this case, do you accept Patricia</p> <p>20 Hammons' report -- you're not hearing me?</p> <p>21 A No. I missed the first half of that one too.</p> <p>22 Q Okay. I'll start over. In forming your</p> <p>23 opinions in this case, do you accept Ms. Hammons'</p> <p>24 report to her physicians and those who have examined</p> | <p style="text-align: right;">Page 197</p> <p>1 Have you seen any information about the</p> <p>2 depositions that were taken of the editors of the</p> <p>3 New England Journal of Medicine about the Altman study?</p> <p>4 A No.</p> <p>5 Q Deposed?</p> <p>6 A I missed your question.</p> <p>7 Q Depositions of the editor-in-chief and</p> <p>8 executive editor of the New England Journal of Medicine</p> <p>9 were taken with regard to the Altman study?</p> <p>10 A I'm sorry, I still missed the first part of</p> <p>11 your question.</p> <p>12 Q Are you -- can you hear me now?</p> <p>13 A I can hear you now.</p> <p>14 Q Okay. All right, I'll just talk, because</p> <p>15 when you talk, it brings the mic back to your room, so</p> <p>16 let me just finish.</p> <p>17 A Okay.</p> <p>18 Q Are you aware that Dr. Curfman, the executive</p> <p>19 editor of the New England Journal of Medicine, and</p> <p>20 Dr. Drazen, the editor-in-chief of the New England</p> <p>21 Journal of Medicine, had their depositions taken with</p> <p>22 regard to the Altman study?</p> <p>23 A I'm not aware of that.</p> <p>24 Q Are you aware -- let me ask you this: Are</p> |

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| <p style="text-align: right;">Page 198</p> <p>1 you aware of any issues with the POP-Q measurements 2 that were relied on to give the anatomic recurrence 3 results that are relied on in the Altman study? 4 A I'm not. 5 Q Are you aware of what involvement Ethicon had 6 with the study design, the analysis or interpretation 7 of the data, or the writing or editing of the 8 manuscript that was published? Do you know anything 9 about Ethicon's involvement in that at all? 10 A No. 11 Q As you sit here now, do you have any 12 knowledge that Ethicon was involved in the study 13 design, the interpretation of the data, or the writing 14 or editing of the manuscript, do you have any knowledge 15 of that occurring? 16 A No. 17 Q Is it your assumption that Ethicon had no 18 involvement with the Altman study other than providing 19 funding? 20 A That's my understanding, yes. 21 Q If Ethicon, in fact, had involvement in 22 editing the article and, in fact, if at least four 23 Ethicon employees had involvement in editing the 24 article, and if Ethicon was involved in the study</p> | <p style="text-align: right;">Page 200</p> <p>1 MR. ISMAIL: Objection to form. 2 THE WITNESS: That's correct. 3 Q (By Mr. Slater) Let me ask you this: When 4 the authors of the Altman study evaluated the data 5 based on functional outcomes, they found that the 6 Prolift was no better than anterior colporrhaphy in 7 terms of the functional outcomes reported by the 8 patients, correct? 9 A I think that's incorrect, but I -- if you -- 10 do you have that article by any chance? 11 Q I don't have the article. 12 A Okay. 13 Q Let me ask you this: From a statistical -- 14 A My recollection is that's incorrect. 15 Q I'm not asking for the actual pure, specific 16 numbers. This is what I'm asking you: In the manner 17 in which people evaluate the data -- 18 A Uh-huh. 19 Q -- and the way the authors evaluated the data 20 in their conclusion -- 21 A Uh-huh. 22 Q -- it was found that from a statistical 23 perspective, the functional outcomes between the 24 Prolift and anterior colporrhaphy were essentially the</p> |
| <p style="text-align: right;">Page 199</p> <p>1 design and the interpretation of the results, that 2 information could impact on your evaluation of the 3 data, right? 4 MR. ISMAIL: Objection to form. 5 THE WITNESS: No. 6 Q (By Mr. Slater) Let me ask you this: If 7 Ethicon made edits to the article such that they would 8 make the dyspareunia rates look more acceptable, lower, 9 would that be of any concern to you? 10 MR. ISMAIL: Objection to form. 11 THE WITNESS: I'm not sure how you would 12 edit numbers. I mean, the numbers really are 13 the numbers, which is what I based my 14 assessment on. 15 Q (By Mr. Slater) Let me ask you this: The 16 de novo dyspareunia rate with the Prolift was 7 percent 17 and the de novo dyspareunia rate with anterior 18 colporrhaphy was 2 percent. That's what was reported, 19 correct? 20 A That's correct. 21 Q So let me ask you this: The de novo 22 dyspareunia rate was more than three times higher with 23 the Prolift than with native tissue suture repair, 24 correct?</p> | <p style="text-align: right;">Page 201</p> <p>1 same, correct? 2 A You're talking about the number of 7 and 2? 3 Q No, I'm talking about the functional outcomes 4 for the people after the surgery. 5 A That's incorrect. 6 Q Fine. Thank you. 7 Do you know -- well, let me ask you this: Do 8 you know anything about whether or not the authors of 9 the Altman study had financial consulting relationships 10 with Ethicon? 11 A I don't. 12 Q Does it matter to you? 13 A No. 14 Q With the concept of financial bias in 15 clinical studies? 16 MR. ISMAIL: Restate, please. 17 MR. SLATER: Sure. 18 Q (By Mr. Slater) Are you familiar -- let me 19 ask this: Are you familiar with the concept of 20 financial bias in clinical studies? 21 A I've never heard that term used before, no. 22 Q Let me ask you this question: With regard to 23 the various studies that have evaluated the Prolift, in 24 evaluating them, did you look to whether or not the</p> |

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| <p style="text-align: right;">Page 202</p> <p>1 people who performed the studies and wrote the 2 articles, whether they had financial relationships with 3 Ethicon? Was that something you considered at all? 4 MR. ISMAIL: Objection to form. 5 THE WITNESS: No. 6 Q (By Mr. Slater) Let me ask you this: On 7 page 24 of your report, you say that, "The fact that 8 studies selected the Prolift to be studied supports 9 that the Prolift is not just an acceptable procedure, 10 but it is arguably the procedure of choice, i.e., the 11 industry standard for trocar-guided mesh augmented 12 prolapse repair." You made that statement, correct? 13 A That's correct. 14 Q Do you know of anybody that's ever published 15 in an article that's peer-reviewed that the Prolift was 16 considered to be the industry standard for these types 17 of repairs? 18 A No. That's my opinion. 19 Q Okay. Let me ask you this: Do you know 20 whether or not doctors who were using the Prolift 21 continued to use it with the same frequency as the 22 years went on or whether or not the use of the Prolift 23 went down? Do you have any idea? 24 MR. ISMAIL: Objection to form.</p> | <p style="text-align: right;">Page 204</p> <p>1 And I'm not really being facetious, but I want to 2 understand something. It could save me a lot of 3 questions. Is there anything I could tell you about 4 the Prolift or people who know about the Prolift that 5 would -- that would impact any of the opinions you've 6 given in this report? 7 MR. ISMAIL: Objection to form. 8 THE WITNESS: I -- that's a difficult 9 question for me to answer. I don't think so. 10 Q (By Mr. Slater) Let me ask you this 11 question: With Patricia Hammons, after the surgery, in 12 the postoperative period when she was -- in her acute 13 healing phase, she healed fine, right? 14 MR. ISMAIL: Which operation? 15 MR. SLATER: That's a good question, 16 actually. Thank you. 17 MR. ISMAIL: You're welcome. 18 Q (By Mr. Slater) After the Prolift was 19 implanted, Ms. Hammons' healing was uneventful, she 20 healed fine from that surgery, correct? 21 MR. ISMAIL: Objection to form. 22 THE WITNESS: Other than having some 23 scar tissue or some tenderness noted at the 24 vaginal cuff, yes.</p> |
| <p style="text-align: right;">Page 203</p> <p>1 THE WITNESS: No. 2 Q (By Mr. Slater) Do you know what 3 Dr. Lucente's -- let me ask you this: Dr. Lucente is 4 somebody you have great respect for, correct? 5 A Correct. 6 Q Do you know what Dr. Lucente's opinion was as 7 between whether or not one should use the Prolift or 8 the Prolift+M based on safety considerations? 9 A I don't. 10 Q Do you know what Dr. Lucente's opinion was as 11 between the Prolift and Prolift+M in terms of what was 12 more compatible with a female's tissue? 13 A I don't. 14 Q Significance to you in forming your opinions 15 in this case? 16 MR. ISMAIL: Restate, please. 17 MR. SLATER: Sure. 18 Q (By Mr. Slater) Would Dr. Lucente's opinions 19 about the Prolift M versus the Prolift be of any 20 significance to you in forming your opinions in this 21 case? 22 MR. ISMAIL: Objection to form. 23 THE WITNESS: No. 24 Q (By Mr. Slater) Let me ask you this, Doctor.</p> | <p style="text-align: right;">Page 205</p> <p>1 Q (By Mr. Slater) Well, let me ask you this: 2 The -- you said she had scar tissue or tenderness at 3 the vaginal cuff? 4 A Uh-huh. 5 Q When was that first noted, how long after the 6 surgery? 7 A Eleven weeks. 8 Q Okay. Well, let me ask you this: One can 9 have normal healing and have some discomfort at the 10 vaginal cuff after a Prolift surgery, correct? 11 A What do you mean by "normal healing"? 12 Q Healing without any complications. 13 MR. ISMAIL: Restate, please. 14 MR. SLATER: Sure. 15 Q (By Mr. Slater) Do you consider that the 16 discomfort and tenderness at the vaginal cuff -- 17 rephrase. 18 Do you consider the scarring and the 19 tenderness at the vaginal cuff 11 weeks after the 20 Prolift to be due to any complication? 21 A No. 22 Q Okay. Let me ask you this: Did you see any 23 indication that Ms. Hammons did not heal normally after 24 the Prolift was implanted?</p> |

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| <p style="text-align: right;">Page 206</p> <p>1 A No.</p> <p>2 Q So let me ask you this: So even though</p> <p>3 Ms. Hammons was a smoker at the time of the Prolift,</p> <p>4 her healing after the Prolift surgery was not impacted</p> <p>5 by that, correct?</p> <p>6 A Not by anything that we could see on exam,</p> <p>7 no.</p> <p>8 Q All right. Let me ask you something else.</p> <p>9 In your report, you indicate that Ms. Hammons had a</p> <p>10 Stage 4 prolapse. You say that, right?</p> <p>11 A Yeah.</p> <p>12 Q Okay. She never had a validated measure done</p> <p>13 of her prolapse before Dr. Baker operated on her and</p> <p>14 placed the Prolift, correct?</p> <p>15 MR. ISMAIL: Objection to form.</p> <p>16 THE WITNESS: I'm not sure what you mean</p> <p>17 by that.</p> <p>18 Q (By Mr. Slater) Let me ask you this: Did</p> <p>19 Dr. Baker calculate POP-Q measurements before he placed</p> <p>20 the Prolift?</p> <p>21 A No.</p> <p>22 Q Okay. What measurement criteria did</p> <p>23 Dr. Baker utilize, what validated measurement criteria</p> <p>24 did he utilize preoperatively to measure the prolapse</p> | <p style="text-align: right;">Page 208</p> <p>1 Walker staging. It's not necessarily as simple as the</p> <p>2 bladder being completely outside of the vagina.</p> <p>3 There's specific criteria for that.</p> <p>4 Q Okay, fine. Let me ask you this: Did</p> <p>5 Dr. Baker reference any criteria, such as POP-Q, ICS,</p> <p>6 or Baden-Walker, in justifying his description of the</p> <p>7 prolapse in terms of staging?</p> <p>8 A When practitioners are using the Baden and</p> <p>9 Walker system, it's just graded. There are no numbers</p> <p>10 that are documented. It's Grade 1, Grade 2, Grade 3,</p> <p>11 or Grade 4. He assessed her prolapse as Grade 4. I</p> <p>12 would assume he was using the Baden-Walker system.</p> <p>13 Q Let me ask you this: What is it about</p> <p>14 Dr. Baker's -- well, let me ask you this: In saying</p> <p>15 it's a Stage 4 prolapse, are you applying the</p> <p>16 Baden-Walker system?</p> <p>17 A Yes.</p> <p>18 Q And what is the criteria for a Stage 4</p> <p>19 prolapse under Baden-Walker?</p> <p>20 A Greater than halfway outside of the hymen.</p> <p>21 So Grade 1 is halfway to the hymen, Grade 2 is at the</p> <p>22 hymen, Grade 3 is halfway beyond, and I'm talking about</p> <p>23 vaginal length, and Grade 4 is greater than halfway</p> <p>24 beyond. So that's all in reference to the hymen and</p> |
| <p style="text-align: right;">Page 207</p> <p>1 before the Prolift was implanted?</p> <p>2 A I don't know. No one ever asked him that,</p> <p>3 from my review of his deposition.</p> <p>4 Q Okay. Dr. Baker's comments on the -- on the</p> <p>5 prolapse that Ms. Hammons exhibited, one could</p> <p>6 interpret that to be anywhere from a Stage 2 to a</p> <p>7 Stage 3 and you call it a Stage 4, right?</p> <p>8 MR. ISMAIL: Objection to form.</p> <p>9 THE WITNESS: I disagree.</p> <p>10 MR. SLATER: Okay.</p> <p>11 Q (By Mr. Slater) Well, let me ask you this</p> <p>12 question: Why do you call it a Stage 4 prolapse</p> <p>13 preoperatively? What is it about Dr. Baker's exam that</p> <p>14 tells you it's a Stage 4?</p> <p>15 A Because he called it a Stage 4, and I would</p> <p>16 assume that somebody that operates on patients that</p> <p>17 have pelvic organ prolapse understand what Stage 4</p> <p>18 prolapse is, regardless of whether or not they can</p> <p>19 assess POP-Q measurements.</p> <p>20 Q All right. Let me ask you: Is a Stage 4</p> <p>21 where the bladder would be completely out of the</p> <p>22 vagina?</p> <p>23 A A Stage 4 -- you want me to just -- there's</p> <p>24 specific definitions for ICS grading and for Baden and</p> | <p style="text-align: right;">Page 209</p> <p>1 the vaginal length.</p> <p>2 Q Well, let me ask you this: When you say</p> <p>3 "greater than halfway beyond the hymen," what is</p> <p>4 greater than halfway beyond the hymen?</p> <p>5 A Total vaginal length.</p> <p>6 Q Are we talking about the location of the</p> <p>7 bladder?</p> <p>8 A No, that's what I'm saying, it's not that</p> <p>9 simple. It's not just about the location of the</p> <p>10 bladder.</p> <p>11 Q Well, let me ask you this: For a Stage 4</p> <p>12 prolapse under Baden-Walker, where would the bladder</p> <p>13 need to be to reach Stage 4 --</p> <p>14 A It doesn't consider bladder --</p> <p>15 Q -- for a cystocele?</p> <p>16 A -- location. The Baden-Walker system doesn't</p> <p>17 describe the bladder location. It's describing the</p> <p>18 amount or length of vagina that is outside -- or in</p> <p>19 relation to the hymen.</p> <p>20 Q Ah. So it's describing the amount of the</p> <p>21 vaginal length that is everted outside the hymen; is</p> <p>22 that what you're saying?</p> <p>23 A That's correct.</p> <p>24 Q Okay. And did Dr. Baker actually make a</p> |

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| <p style="text-align: right;">Page 210</p> <p>1 finding of a particular amount of the vaginal length 2 that was actually everted outside the hymen? Did he 3 actually document that in his records? 4 A He did by calling it a Grade 4 prolapse. 5 That's what he's documenting. 6 Q Conclusion, but there is no clinical 7 documentation from which you can evaluate the basis for 8 his conclusion it's a -- it's a Grade 4, correct? 9 MR. ISMAIL: Restate, please. 10 MR. SLATER: Sure. 11 Q (By Mr. Slater) Dr. Baker did not document 12 data regarding his examination of the vagina such that 13 you could corroborate whether or not it really is a 14 Stage 4 or a Grade 4 under Baden-Walker, he just gave 15 the conclusion, correct? 16 MR. ISMAIL: Objection to form. 17 THE WITNESS: When you use the Baden and 18 Walker system, that grade is the objective 19 documentation. 20 Q (By Mr. Slater) Well, let me ask you this: 21 If you wanted to document in a chart a Grade 4 prolapse 22 under Baden-Walker and you wanted another doctor to be 23 able to evaluate the basis for your conclusion, you 24 could document your specific findings on examination</p> | <p style="text-align: right;">Page 212</p> <p>1 is you're just accepting Dr. Baker calling it a Stage 4 2 or a Grade 4; you don't need to see any corroborating 3 medical information to support that, right? 4 MR. ISMAIL: Objection to form. 5 THE WITNESS: There is corroborating 6 medical information to support that, in my 7 opinion. 8 Q (By Mr. Slater) What's that? 9 A Dr. Drolet and Dr. Zipper currently assess 10 Mrs. Hammons' prolapse as a -- I can't remember if they 11 used POP-Q or Baden-Walker, but they say Stage 3. And 12 currently she's asymptomatic. When she presented to 13 Dr. Baker, she was symptomatic. So I would assume that 14 the prolapse that she had when she presented to 15 Dr. Baker is larger than it was when she presented and 16 was evaluated by Dr. Zipper and Drolet. 17 Q Okay. Let me ask you this: What symptoms 18 was Ms. Hammons experiencing due to prolapse before the 19 Prolift was put in her body? 20 A From what I remember, she reported that it 21 was bothersome with coughing, lifting, and with sexual 22 intercourse, her bulge. 23 Q Meaning that she was aware of it, she could 24 feel it?</p> |
| <p style="text-align: right;">Page 211</p> <p>1 that form the basis for your conclusion, you could do 2 that, correct? 3 A You could. 4 Q Dr. Baker did not do that, correct? 5 A If you're asking if he documented vaginal 6 length and how much vaginal length was outside of the 7 vagina, no, he didn't. 8 Q Testimony from Dr. Baker explaining that he 9 understood and applied the Baden-Walker system and 10 actually that's how he came to his finding of a 11 Grade 4? Did he testify to that? 12 A I missed -- I missed the first part of that 13 question. I'm sorry. 14 Q Sure. Sure. Do you have any information 15 from a medical record or a deposition indicating that 16 Dr. Baker actually applied the Baden-Walker system, 17 evaluated the amount of vaginal length that was 18 outside -- beyond the hymen, and utilized that 19 information in coming to a conclusion of a Grade 4 20 prolapse? 21 A That's what using that term is an indication 22 of, and you don't have to physically measure the 23 length. You can eyeball it, if you will. 24 Q So the bottom line is -- the bottom line here</p> | <p style="text-align: right;">Page 213</p> <p>1 A She was -- she was aware of it, right. 2 Q She had no pain reported, correct? 3 A She did not report -- 4 Q She reported no pain, correct? 5 A She did not report pain. 6 Q She didn't report dyspareunia either, 7 correct? 8 A She did not. 9 Q Let me ask you this question: If -- and I'm 10 asking you to draw an assumption -- if the evidence 11 were to establish that she actually had a Stage 3 or 12 early -- rephrase. 13 If the evidence were to establish that 14 Ms. Hammons actually had a Stage 2 or early Stage 3 15 prolapse, would that have any impact on any of your 16 opinions in this case? And I'm talking about 17 pre-Prolift. 18 A No. 19 Q Let me ask you something, Doctor. You talk 20 in your article [sic] on page 31 about the "Time to 21 Rethink" article, right? 22 A Yes. 23 MR. ISMAIL: You said your article. Do 24 you mean the report, Mr. Slater?</p> |

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| <p style="text-align: right;">Page 214</p> <p>1 MR. SLATER: In her -- in her report on 2 page 31, there's a discussion of the "Time to 3 Rethink" editorial. 4 THE WITNESS: Yes. 5 Q (By Mr. Slater) Okay. You know that's not a 6 peer-reviewed article, right? 7 A I know that, yeah. 8 Q You say that, "The Pelvic Surgeons Network, 9 consisting of over 600 pelvic surgeons, including 10 myself, conducted an analysis of available data, 11 including efficacy and potential complications with 12 regard to transvaginal mesh placement for prolapse 13 treatment." That's what you wrote, right? 14 A That's correct. 15 Q Have you read -- well, let me ask you this: 16 Do you know where the name Pelvic Surgeons Network came 17 from? 18 A I don't. 19 Q The 600 surgeons conducted an analysis of 20 available data, are you saying you participated in some 21 sort of a scientific study of data? 22 MR. ISMAIL: Restate, please. 23 Q (By Mr. Slater) Are you saying -- when you 24 say that 600 pelvic surgeons, including yourself,</p> | <p style="text-align: right;">Page 216</p> <p>1 A I don't know. 2 Q Did the authors of the article, who happen to 3 be Lucente and Murphy, write back to you when you gave 4 your feedback? Did they respond? 5 A I don't remember. 6 Q Did you send it to them by email? 7 A I believe so. 8 Q Do you still have that email? 9 A Probably not. 10 Q Do you have the email you received from them 11 with the article and the -- and the petition attached 12 to it? 13 A Probably not, no. 14 MR. SLATER: All right. Well, we'll ask 15 for production of those items, the email with 16 regard to "Time to Rethink" and any email 17 from Dr. Lowman back to Lucente and Murphy, 18 if she has it. 19 MR. ISMAIL: We'll take it under 20 advisement. 21 Q (By Mr. Slater) Would you have used your 22 work -- Dr. Lowman -- 23 A Yes. 24 Q -- what computer were you using at the time?</p> |
| <p style="text-align: right;">Page 215</p> <p>1 conducted an analysis of available data, are you saying 2 an actual scientific analysis was undertaken? 3 A I'm not sure what you mean by that. Did we 4 generate a scientific paper, is that the question or -- 5 I'm -- 6 Q Yeah, let's start with that question. 7 A We did not generate a scientific paper, but 8 we did analyze current data. 9 Q When you say -- let me ask you this: When 10 you say "we," did you participate in writing that 11 editorial? 12 A No. 13 Q All that happened was it was circulated to a 14 bunch of doctors and they signed the petition at the 15 end, right? 16 A Yes, after reviewing, giving feedback, yes. 17 Q Let me ask you: You gave feedback on the 18 article? 19 A Yes. 20 Q Did that impact the writing of the article? 21 Did the language change based on your feedback? 22 A No. 23 Q Do you know if anybody else gave feedback 24 besides you?</p> | <p style="text-align: right;">Page 217</p> <p>1 A 2012? I don't know. 2 Q You were in Atlanta at your current practice, 3 right? 4 A I was, uh-huh. 5 Q Has the computer system in your office been 6 changed since that time? 7 A My office has changed since that time. 8 Before I got a partner, before we hired Dr. Saguan, I 9 was floating throughout the region, so I was using 10 different computers. It wasn't until either late 2012 11 or 2013, I believe, that I had a stationary office or I 12 was in one location most of the time. 13 Q Well, you had an email account, right, for 14 your -- for your practice? Is that what you would have 15 used for these emails? 16 A That's correct. Either that or my personal 17 account. I don't know which one it was. 18 Q Do you have the same email accounts, your 19 professional and private ones, are they still the same? 20 A They are. 21 Q You'd be able to go look into your old emails 22 and see if you still have those, right? 23 MR. ISMAIL: Objection to form. 24 THE WITNESS: I can look.</p> |

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| <p style="text-align: right;">Page 218</p> <p>1 MR. SLATER: Okay.</p> <p>2 Q (By Mr. Slater) By the way, one other</p> <p>3 question. The "Time to Rethink" article was not</p> <p>4 limited to discussing the Prolift, was it?</p> <p>5 A No, it wasn't.</p> <p>6 Q "Think" article is talking about mesh surgery</p> <p>7 in general, right?</p> <p>8 A That's correct.</p> <p>9 Q And let me ask you this: The ultimate</p> <p>10 conclusion of that article was don't ban mesh because</p> <p>11 there are some doctors who are skilled enough to use it</p> <p>12 in some patients who it would be appropriate to use the</p> <p>13 mesh with if you have the right doctor; fair statement?</p> <p>14 A No. There was never --</p> <p>15 Q Okay.</p> <p>16 A -- no ban of mesh.</p> <p>17 Q Well, wasn't one of the concerns in the</p> <p>18 article that mesh was on the verge of -- people were</p> <p>19 talking about banning it and that's why this article</p> <p>20 was written?</p> <p>21 A No.</p> <p>22 Q Do you know that the FDA was considering</p> <p>23 banning mesh kits like the Prolift?</p> <p>24 MR. ISMAIL: Objection to form.</p> | <p style="text-align: right;">Page 220</p> <p>1 causes that contributed to this?</p> <p>2 A Yes.</p> <p>3 Q Let me ask you this question: You refer to</p> <p>4 mesh that had been placed on excessive tension. When</p> <p>5 mesh is on excessive tension, are you aware that that</p> <p>6 can increase the risk of scar plating and contraction?</p> <p>7 A I'm aware that that can cause pain. I'm not</p> <p>8 aware that it can cause scar plating.</p> <p>9 Q Well, let me ask you this: Do you have an</p> <p>10 understanding of what happens to the pores in the</p> <p>11 Prolift when it's placed on excessive tension?</p> <p>12 A I don't.</p> <p>13 Q Let me ask you this question: When</p> <p>14 Dr. Zipper examined Ms. Hammons, he found that she was</p> <p>15 having -- she had tenderness on the exam and he</p> <p>16 attributed that to the Prolift, correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. That's consistent with the findings by</p> <p>19 Dr. Heit, correct?</p> <p>20 MR. ISMAIL: Objection to form.</p> <p>21 THE WITNESS: He -- Dr. Heit, my</p> <p>22 impression of Dr. Heit's exam was that he</p> <p>23 felt that she had pain at the site of rolled</p> <p>24 and bunched mesh.</p> |
| <p style="text-align: right;">Page 219</p> <p>1 THE WITNESS: I did -- I was not aware</p> <p>2 of that.</p> <p>3 Q (By Mr. Slater) Are you aware up till the</p> <p>4 present whether the FDA was considering -- well, let me</p> <p>5 ask you this: You don't know anything about the</p> <p>6 interaction between the FDA and Ethicon about the</p> <p>7 Prolift, correct?</p> <p>8 A Correct.</p> <p>9 Q Let me ask you to -- let me just get to this.</p> <p>10 Okay, if you could, turn to page 33 of your report,</p> <p>11 please.</p> <p>12 A Okay. I'm here.</p> <p>13 Q Okay. On page 33, towards the bottom, about</p> <p>14 five lines up, your report says, "It is my opinion that</p> <p>15 Ms. Hammons' dyspareunia was multifactorial and was due</p> <p>16 to a combination of a shortened vagina, scarring or</p> <p>17 narrowing from a posterior repair, vaginal atrophy, and</p> <p>18 rolled or bunched mesh and/or mesh that had been placed</p> <p>19 on excessive tension." Do you see that?</p> <p>20 A I do.</p> <p>21 Q And you stand by that opinion today?</p> <p>22 A I do.</p> <p>23 Q When you say that the dyspareunia was</p> <p>24 multifactorial, are you saying that there were multiple</p> | <p style="text-align: right;">Page 221</p> <p>1 Q (By Mr. Slater) I want to understand one</p> <p>2 thing. You seem to suggest that if -- that the rolling</p> <p>3 or -- well, let me ask you this: You say rolling or</p> <p>4 bunching of the mesh. Am I correct that what you're</p> <p>5 saying is you're basically talking about the same</p> <p>6 thing, whether it was rolled or bunched, you're saying</p> <p>7 that's -- it's the same thing to you?</p> <p>8 A Not exactly, but I don't think distinguishing</p> <p>9 them is important in terms of the pathology.</p> <p>10 Q Okay. The important thing is whether the</p> <p>11 mesh is laying flat or whether it's bunched up or</p> <p>12 folded or clumped together, that's a bad thing, right?</p> <p>13 A That's correct.</p> <p>14 Q When the mesh is bunched up, for example,</p> <p>15 that can increase the risk for complications, correct?</p> <p>16 A That's correct.</p> <p>17 Q And a doctor can follow the Prolift</p> <p>18 technique, follow the technique in the IFU and the</p> <p>19 surgical guide, and the mesh can still end up bunched,</p> <p>20 that can happen, correct?</p> <p>21 MR. ISMAIL: Objection to form.</p> <p>22 THE WITNESS: I don't think so.</p> <p>23 Q (By Mr. Slater) Do you think that</p> <p>24 Dr. Jacquetin and Velemir knew how to do the Prolift</p> |

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| <p style="text-align: right;">Page 222</p> <p>1 procedure?</p> <p>2 A Yes.</p> <p>3 Q You read the Velemir article. You cited it</p> <p>4 in your report, right?</p> <p>5 A Yes.</p> <p>6 Q Did you see the findings that 89 percent of</p> <p>7 the anterior Prolifts had either moderate or severe</p> <p>8 contraction?</p> <p>9 MR. ISMAIL: Objection to form.</p> <p>10 THE WITNESS: I don't remember that</p> <p>11 finding, no.</p> <p>12 Q (By Mr. Slater) Did you look in the Velemir</p> <p>13 article at the ultrasound images showing that the mesh</p> <p>14 was bunched up and in an irregular shape?</p> <p>15 A I don't remember them describing that, that</p> <p>16 it was bunched and irregular.</p> <p>17 Q Seeing those pictures of the ultrasounds in</p> <p>18 the article?</p> <p>19 MR. ISMAIL: Restate, please.</p> <p>20 Q (By Mr. Slater) Do you remember seeing the</p> <p>21 pictures of the mesh on ultrasound in the Velemir</p> <p>22 article?</p> <p>23 A I don't remember the pictures specifically.</p> <p>24 Q You say here that Dr. Baker, from your</p> | <p style="text-align: right;">Page 224</p> <p>1 been my experience in clinical practice.</p> <p>2 Q (By Mr. Slater) Your experience is 150</p> <p>3 Prolift procedures, right?</p> <p>4 A That's correct.</p> <p>5 Q Okay. Ethicon, you would agree with me,</p> <p>6 probably has a lot more information than you do about</p> <p>7 what happens with the Prolift in the human body,</p> <p>8 correct?</p> <p>9 MR. ISMAIL: Objection to form.</p> <p>10 THE WITNESS: I would say that I</p> <p>11 think -- it depends on who you're talking</p> <p>12 about at Ethicon.</p> <p>13 Q (By Mr. Slater) How about the medical</p> <p>14 affairs directors? How about the medical affairs</p> <p>15 directors?</p> <p>16 MR. ISMAIL: Objection to form.</p> <p>17 THE WITNESS: The medical affairs</p> <p>18 directors?</p> <p>19 Q (By Mr. Slater) Do you know what a medical</p> <p>20 affairs director is?</p> <p>21 A I think I have a good idea. I don't think</p> <p>22 that administrators would have a better idea of what</p> <p>23 goes on with the Prolift than surgeons. I do believe</p> <p>24 that Ethicon works --</p> |
| <p style="text-align: right;">Page 223</p> <p>1 perspective, was an appropriate surgeon and fully</p> <p>2 qualified and skilled to perform the Prolift procedure,</p> <p>3 correct?</p> <p>4 A Yes.</p> <p>5 Q You also say -- rephrase.</p> <p>6 You say in your report that the rolling or</p> <p>7 bunching of mesh after the Prolift in this case was</p> <p>8 most likely due to improper technique and implantation.</p> <p>9 You say that in your report, right?</p> <p>10 A That's part of it, yes.</p> <p>11 Q It's also possible that Dr. Baker did do the</p> <p>12 procedure correctly and the mesh ended up bunched just</p> <p>13 because of the nature of the Prolift and the fact that</p> <p>14 in some women, the mesh bunches up just because of the</p> <p>15 way the procedure is performed in all patients, that</p> <p>16 can happen, are you aware of that?</p> <p>17 A No.</p> <p>18 Q Okay. If Ethicon thinks that a doctor can</p> <p>19 follow the procedure, do everything correctly, and the</p> <p>20 mesh can still be bunched up, would you defer to</p> <p>21 Ethicon, the people who developed and sell the device,</p> <p>22 or would you say, "No, I disagree with Ethicon"?</p> <p>23 MR. ISMAIL: Objection to form.</p> <p>24 THE WITNESS: I would say that has not</p> | <p style="text-align: right;">Page 225</p> <p>1 Q Okay.</p> <p>2 A -- closely with surgeons. I think those</p> <p>3 surgeons might have more information than me.</p> <p>4 Q Is it -- is it your -- okay. Is it your</p> <p>5 understanding that the medical affairs directors at</p> <p>6 Ethicon, even though you're not sure who they are, that</p> <p>7 they're administrators? Is that what you said?</p> <p>8 A Okay.</p> <p>9 Q Their backgrounds or qualifications, right?</p> <p>10 A I'm sorry, could you repeat that?</p> <p>11 Q You don't know the background or -- sure.</p> <p>12 You don't know the background or qualifications of any</p> <p>13 of the medical affairs directors at Ethicon, right?</p> <p>14 A I don't.</p> <p>15 Q Let me ask you a couple questions about the</p> <p>16 warnings. You read Dr. Baker's deposition, correct?</p> <p>17 A Yes.</p> <p>18 Q And you saw there were some things that he</p> <p>19 said he was not aware of when he was using the Prolift?</p> <p>20 A Yes.</p> <p>21 MR. ISMAIL: Objection to form.</p> <p>22 Q (By Mr. Slater) Okay. Well, let me ask you:</p> <p>23 The things he said he did not know, were those things</p> <p>24 that you knew?</p> |

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| <p style="text-align: right;">Page 226</p> <p>1 MR. ISMAIL: Objection to form.</p> <p>2 THE WITNESS: Could you be more</p> <p>3 specific?</p> <p>4 Q (By Mr. Slater) All right, let me ask you</p> <p>5 this question: Is it your understanding that when the</p> <p>6 Prolift is in the body, that it creates a chronic</p> <p>7 inflammatory reaction that in some women can be severe?</p> <p>8 Do you -- do you believe that to be true?</p> <p>9 A I've not seen any evidence of that, no.</p> <p>10 Q Do you -- so you feel that doesn't happen</p> <p>11 based on your experience, correct?</p> <p>12 A Correct.</p> <p>13 Q And that's your assumption in forming your</p> <p>14 opinions, correct?</p> <p>15 MR. ISMAIL: Objection to form.</p> <p>16 THE WITNESS: That's correct.</p> <p>17 Q (By Mr. Slater) Let me ask you about</p> <p>18 something. On the bottom of page 56, you say, "The</p> <p>19 professional education authored by Ethicon has been</p> <p>20 more than adequate, but exceptional, in my opinion."</p> <p>21 You say that in your report, correct?</p> <p>22 A That's correct.</p> <p>23 Q You never attended the professional education</p> <p>24 authored by Ethicon, we established that earlier, or if</p> | <p style="text-align: right;">Page 228</p> <p>1 Gynemesh PS or the Prolift, you've never looked at</p> <p>2 them, right?</p> <p>3 A That's correct.</p> <p>4 Q You've never looked at the protocols for the</p> <p>5 Gynemesh PS or the TVM studies, right?</p> <p>6 MR. ISMAIL: Objection to form.</p> <p>7 THE WITNESS: That's correct.</p> <p>8 MR. SLATER: All right, I think we're at</p> <p>9 one minute on this tape, so let's change the</p> <p>10 tape and I'm going to -- Jonathan, if we</p> <p>11 could, maybe if you could just give me a call</p> <p>12 on my -- on the cell or if I can call you. I</p> <p>13 just want to ask you a question and then I'm</p> <p>14 getting towards the end, guys.</p> <p>15 (Discussion off the written record.)</p> <p>16 THE VIDEOGRAPHER: We are now going off</p> <p>17 the video record. The time is -- hang on.</p> <p>18 We are now going off the video record. The</p> <p>19 time is currently 4:38 p.m.</p> <p>20 (Recess taken.)</p> <p>21 THE VIDEOGRAPHER: We are now back on</p> <p>22 the video record with Tape No. 5. The time</p> <p>23 is currently 4:53 p.m.</p> <p>24 Q (By Mr. Slater) Doctor, in front of you is</p> |
| <p style="text-align: right;">Page 227</p> <p>1 you did, you can't remember doing so, right?</p> <p>2 MR. ISMAIL: Objection to form.</p> <p>3 THE WITNESS: I don't remember attending</p> <p>4 proctorships or dinners where we did</p> <p>5 surgeries or cadaver labs afterwards. But</p> <p>6 what I'm referencing is their educational</p> <p>7 literature.</p> <p>8 Q (By Mr. Slater) The educational -- rephrase.</p> <p>9 You're referring there to the educational</p> <p>10 literature that you saw after you were retained as an</p> <p>11 expert and they sent some of that stuff to you,</p> <p>12 correct?</p> <p>13 A Yes, that's part of it.</p> <p>14 Q Okay. Did you go through the PowerPoints for</p> <p>15 professional education that they sent you to determine</p> <p>16 whether the information in there was accurate and</p> <p>17 truthful?</p> <p>18 A I went through those documents, yes.</p> <p>19 Q And you were comfortable that all the data</p> <p>20 cited in the professional education decks was accurate?</p> <p>21 MR. ISMAIL: Objection to form.</p> <p>22 THE WITNESS: That's my position, yes.</p> <p>23 Q (By Mr. Slater) You've never looked at the</p> <p>24 underlying data for any of the prototype studies on</p> | <p style="text-align: right;">Page 229</p> <p>1 Exhibit 8, and it looks like you had sent an email --</p> <p>2 rephrase.</p> <p>3 Exhibit 8 looks like it's a cover sheet from</p> <p>4 your office to Ethicon making a medical information</p> <p>5 request. Do you see that?</p> <p>6 A I do.</p> <p>7 Q And I don't know, is that your handwriting on</p> <p>8 it or is it someone from your office?</p> <p>9 A That's my handwriting.</p> <p>10 Q And could you just read for the record,</p> <p>11 because I'm not sure if I can read all the words, what</p> <p>12 you asked for on April 15, 2013?</p> <p>13 A Yes. No. 1 says, "Prolift, list of all</p> <p>14 research" -- yes, "list of all" -- sometimes I have a</p> <p>15 hard time reading my own handwriting. "List of all</p> <p>16 research papers done on Prolift and a summary of the</p> <p>17 findings if you have it." And, two, "Gynemesh used in</p> <p>18 sacrocolpopexy, list of all research papers done on it</p> <p>19 and a summary of the findings."</p> <p>20 Q Okay. Why is it you sent that request to</p> <p>21 Ethicon?</p> <p>22 A I was in the process of wanting to do a</p> <p>23 outcomes assessment on the patients that -- my</p> <p>24 patients. And I wanted to try to circumvent having to</p> |

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| <p style="text-align: right;">Page 230</p> <p>1 do an exhaustive literature search and try to get this 2 information more directly. 3 Q And then Exhibit 9, if you could look at 4 Exhibit 9, they show the document that you had faxed in 5 coming in by -- I guess they call it an e-fax, and then 6 you see the emails above where they sent your fax 7 around. And at the top, you have Pete Hinoul saying, 8 "I am not sure that we owe the doctor this kind of 9 response. We are not a library service. I wonder 10 whether I can reach out and ask what his specific 11 question is." Do you see that? 12 A I see that. 13 Q Now, this -- the emails are in 2014 after you 14 originally sent your request in in 2013, it looks like, 15 correct? 16 A That's what it looks like. 17 Q Do you know whether or not there's some 18 error; or do you know, was it 2013 when you sent it in? 19 MR. ISMAIL: Objection to form. 20 THE WITNESS: I -- it looks like from 21 the fax that it was 2013. 22 MR. SLATER: Okay. 23 Q (By Mr. Slater) Did you ever get a response 24 from Ethicon?</p> | <p style="text-align: right;">Page 232</p> <p>1 A It was hard for me to try to get IRB 2 approval. They kept denying it, and so I ultimately 3 gave up, and then it -- I was also guessing that it was 4 going to be hard for me to amass a large enough cohort 5 of patients to make it meaningful because the Prolift 6 was withdrawn from the market. 7 Q You say you wanted to get IRB approval. Are 8 you talking about you submitted a grant request to 9 Ethicon? 10 A No. Institution Review Board at Kaiser. 11 Q Okay. So you never got that far to even make 12 a request to Ethicon for funding or anything; you were 13 just trying to get IRB permission from your health 14 system? 15 A Right. I didn't need funding for it. 16 Q Okay. I'm just checking my notes really 17 quickly. Give me a second. I'm just checking my 18 notes, as I said. 19 A Okay. 20 Q Oh, I think you might have -- we might have 21 your invoices here, Dr. Lowman. I'd like to mark those 22 and confirm how much money you've been paid in this 23 case to date. 24 A Okay.</p> |
| <p style="text-align: right;">Page 231</p> <p>1 A No, I don't believe so. 2 Q Okay. Did you ever follow up with anybody 3 from Ethicon, whether it was a sales representative or 4 anybody, and ask if they were going to send you this 5 information? 6 A I don't remember. 7 Q Okay. Now, if we could, can you go back to 8 your CV that's attached to the report, please. I just 9 have a few questions on that. 10 A Okay. Okay. 11 Q Okay. Doctor, on the second page of your CV 12 is a list of current research activities. Do you see 13 that? 14 A I do. 15 Q Okay. Are those current research activities 16 as of today? 17 A No. The magnesium sulfate prophylaxis is not 18 a current research activity, nor is the long-term 19 success rate with the Prolift. 20 Q The long-term success rate of the Prolift 21 procedure, that research activity, when did that stop? 22 A I don't remember exactly. I'll just have to 23 say I don't remember. 24 Q Why did you cease that project?</p> | <p style="text-align: right;">Page 233</p> <p>1 (Discussion off the written record.) 2 (Exhibit 24 marked for identification.) 3 THE WITNESS: Okay, I have them. 4 Q (By Mr. Slater) Okay. All right, Doctor, 5 you told us just earlier your -- the hourly rates that 6 you're charging. What amount have you billed for this 7 matter so far to date? 8 A It is approximately 50,000 or so. 9 Q Well, the invoices that you have there, when 10 are they dated? 11 A One was sent on October 15th. 12 Q What's that amount? 13 A 19,600. 14 Q Okay. What else do you have? 15 A And the other one, the last dated hour 16 documentation was August 10th, and that amount was 17 32,400. 18 Q Okay. 19 MR. ISMAIL: And just so you know -- 20 Q (By Mr. Slater) You said that -- 21 MR. ISMAIL: Just one comment. 22 MR. SLATER: Yes. 23 MR. ISMAIL: The invoices reflect -- are 24 not just Hammons specific, which maybe you</p> |

Joye K. Lowman, M.D., MPH

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| <p style="text-align: right;">Page 234</p> <p>1 would have gotten to and I preempted you, but 2 just so you're aware. 3 MR. SLATER: No problem. I was going to 4 ask that, actually. 5 Q (By Mr. Slater) The invoices that you just 6 read off, the one that's August 10th, that's for work 7 you did up through August 10th? 8 A Yes. 9 Q And what's the earliest date of that work? 10 A For this particular invoice? There's -- the 11 one -- the earliest date for the work on this invoice 12 was July 20th. Oh, yeah, this would have been before 13 that one, so yeah. That's the earliest date, 14 July 20th. 15 Q 2015 we're talking about, right? 16 A Right, 2015. 17 Q Okay. And it's \$32,400. Is that for the 18 Hammons case or for anything else? 19 A It's for all my work through that time 20 period. 21 Q What other work are you doing -- 22 A It's not just the Hammons case. 23 Q -- beside the Hammons? What else is there? 24 A There was another case that I was asked to</p> | <p style="text-align: right;">Page 236</p> <p>1 preparing for the deposition, that sort of thing? 2 A Right. 3 Q And that wouldn't include today, or would it? 4 A That would not include today. 5 Q Okay. So over a hundred hours at \$400 an 6 hour on Hammons that you haven't billed for yet? 7 A That's correct. 8 Q Today, which is \$600 an hour? 9 A That's correct. 10 MR. SLATER: I don't think I have any 11 other questions, guys. 12 MR. ISMAIL: Okay. No questions here 13 either. We'll reserve reading and sign. 14 Thank you very much. 15 THE VIDEOGRAPHER: We are now going off 16 the video record. 17 MR. SLATER: Thank you very much. 18 THE WITNESS: Thank you. 19 THE VIDEOGRAPHER: We are now going off 20 the video record. The time is currently 21 4:05 p.m. This is the end of Tape No. 22 5 and the end of the deposition. 23 (Deposition concluded at 5:04 p.m.) 24</p> |
| <p style="text-align: right;">Page 235</p> <p>1 review. 2 Q What case was that? 3 THE WITNESS: I'm able to say that? 4 MR. ISMAIL: You're allowed, yes. 5 THE WITNESS: Okay. The Delacruz 6 case. 7 Q (By Mr. Slater) Okay. Is there any way to 8 tell me of the \$32,400 how much was for Hammons? 9 A No. 10 Q The next invoice dated October 15, is that 11 from your billing from August 10 forward to October 15? 12 A That's correct. 13 Q And that was 19,600. Is that for Hammons 14 only or for more than one case? 15 A What -- this is November. That was for more 16 than one case, too, I believe. 17 Q In addition to Hammons, what case? 18 A The Delacruz case. 19 Q Okay. Since October 15, do you know how many 20 hours you've spent up through today or can you estimate 21 on this case, on Hammons? 22 A It's been over a hundred. I don't know 23 exactly. 24 Q Over a hundred hours reviewing materials,</p> | <p style="text-align: right;">Page 237</p> <p>1 C E R T I F I C A T E . 2 3 STATE OF GEORGIA 4 COUNTY OF COBB 5 6 I, MICHELLE M. BOUDREAUX, do hereby certify 7 that JOYE K. LOWMAN, M.D., MPH, the witness whose 8 deposition is hereinbefore set forth, was duly sworn by 9 me and that such deposition is a true record of the 10 testimony given by such witness. 11 12 I further certify that I am not related to 13 any of the parties to this action by blood or marriage 14 and that I am in no way interested in the outcome of 15 this matter. 16 17 IN WITNESS WHEREOF, I have hereunto set my 18 hand this 17th day of November 2015. 19 20 _____ 21 MICHELLE M. BOUDREAUX, RPR 22 23 24</p> |

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| <p style="text-align: right;">Page 238</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATIONS</p> <p>4 Examination by Mr. Slater 5</p> <p>5 ---</p> <p>6 EXHIBITS</p> <p>7 Exhibit Page</p> <p>8 Exhibit 1 9</p> <p>9 Expert Report of Joye K. Lowman, M.D., MPH</p> <p>10 Exhibit 2 149</p> <p>11 SGS Papers, "Pelvic magnetic resonance imaging</p> <p>12 for assessment of the efficacy of the Prolift</p> <p>13 system for pelvic organ prolapse"</p> <p>14 (Seshadri Kasturi, et al.)</p> <p>15 Exhibit 3 151</p> <p>16 SGS Papers, "Does the Prolift system cause</p> <p>17 dyspareunia?" (Joye K. Lowman, et al.)</p> <p>18 Exhibit 4 185</p> <p>19 Email chain (ETH.MESH.00006814)</p> <p>20 Exhibit 5 188</p> <p>21 "Does the Prolift Procedure Cause Dyspareunia?"</p> <p>22 (Joye K. Lowman, et al.)</p> <p>23 Exhibit 7 49</p> <p>24 June 16, 2009 email (ETH.MESH.10213366)</p> <p>Exhibit 8 229</p> <p>May 31, 2013 fax to Ethicon from Dr. Lowman's</p> <p>office (ETH.MESH.19114214...)</p> <p>Exhibit 9 230</p> <p>Email chain (ETH.MESH.19114057...)</p> <p>Exhibit 10 80</p> <p>Email chain (ETH.MESH.03966939...)</p> | <p style="text-align: right;">Page 240</p> <p>1 ERRATA SHEET FOR THE TRANSCRIPT OF:</p> <p>2 Case Name: Patricia Hammons vs. Ethicon, et al.</p> <p>3 Deposition Date: November 13, 2015</p> <p>4 Deponent: Joye K. Lowman, M.D.</p> <p>5 Pg. Ln. Now Reads Should Read Reason</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p style="text-align: center;">Signature of Deponent</p> <p>SUBSCRIBED AND SWORN BEFORE ME</p> <p>THIS ____ DAY OF _____ 20__.</p> <p>(SIGNATURE OF NOTARY PUBLIC)</p> <p>MY COMMISSION EXPIRES: _____</p> |
| <p style="text-align: right;">Page 239</p> <p>1 INDEX (Cont'd)</p> <p>2</p> <p>3 Exhibit Page</p> <p>4 Exhibit 11 82</p> <p>5 List (ETH.MESH.03966941)</p> <p>6 Exhibit 17 43</p> <p>7 Email chain (ETH.MESH.01717117...)</p> <p>8 Exhibit 18 47</p> <p>9 Email chain (ETH.MESH.07639968)</p> <p>10 Exhibit 22 138</p> <p>11 Lowman, Joye Materials List - 11.12.15</p> <p>12 Exhibit 23 159</p> <p>13 Journal of Pelvic Medicine & Surgery,</p> <p>14 Volume 14, Number 2, March/April 2008</p> <p>15 Exhibit 24 233</p> <p>16 Dr. Lowman case hours</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> | |